1993 Lincoln/Lancaster County Air Pollution Control Program

The following shall be the 1993 Air Pollution Regulations and Standards governing the Air Pollution Control Program of the Lincoln-Lancaster County Health Department within Lancaster County including the City of Lincoln and other cities and villages within the county.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

SECTION 1. INTENT.

It is the intent and purpose of the Air Pollution Control Program to implement and enforce an air pollution control program consistent with the Clean Air Act, as amended (42 U.S.C. 7401 et seq.) within the corporate limits of the city and the zoning jurisdiction of the city and within Lancaster County according to the authority the City, County or the Lincoln Lancaster County Health Department may have available and may exercise jointly including all authority delegated or conferred in the applicable laws or regulations of the United States or the State of Nebraska; including Neb. Rev. Stat. Section 81-1504 (23); Neb. Rev. Stat. Section 81-1528(1); and the Clean Air Act, as amended (42 U.S.C. 7401 et seq.). Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines and burden of proof. Nothing in these regulations and standards is intended to preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with the Clean Air Act or the air pollution control regulations of the State of Nebraska.

SECTION 2. UNLAWFUL ACTS -- PERMITS REQUIRED

(A) It shall be unlawful for any person to cause any air pollution within the City or County or cause to be placed any wastes in a location where they are likely to cause air pollution;

(B) It shall be unlawful for any person to construct or use any source for the emission of any regulated air pollutant unless he or she holds a current permit therefore;

(C) It shall be unlawful to:
- (1) Construct or operate an air pollution source without first obtaining a permit required under the Air Pollution Control Program;
- (2) Violate any term or condition of an air pollution permit or any emission limit set in the permit; or
- (3) Violate any emission limit or standard established in the Air Pollution Control Program.

SECTION 3. VIOLATIONS -- HEARINGS -- ORDERS.

(A) Whenever the Director has reason to believe that a violation of any provision of the Air Pollution Control Program has occurred, the Director may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provision of the Act, rule or regulation, or order alleged to be violated and the facts alleged to constitute a violation thereof and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named therein requests in writing a hearing before the Director no later than thirty days after the date such order is served. Such hearing shall be conducted as provided under Section 3, Subsection (B). If the alleged violator wants a formal hearing according to the procedures for a contested case under Section 4, such person shall make the request in writing no later than 30 days after the date such order is served. In lieu of such order, the Director may require that the alleged violator appear before the Director at a time and place specified in the notice and answer the charges complained of. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection (E) of this section not less than thirty days before the time set for the hearing.

(B) The Director shall afford an opportunity for a fair hearing, and on the basis of the evidence produced at the hearing, the Director or hearing officer shall make findings of fact and conclusions of law and shall give written notice of such order to the alleged violator and to such other persons who appear at the hearing and make written request for notice of the order. If the hearing is held before any person other than the Director, such person shall transmit a record of the hearing together with findings of fact and conclusions of law to the Director. The Director, prior to entering any order on the basis of such record, shall provide opportunity to the parties to submit for his or her consideration exceptions to the findings or conclusions and supporting reasons for such exceptions. The order of the Director shall become final and binding on all parties unless appealed within thirty days after notice has been sent to the parties.

(C) Whenever the Director finds that an air pollution emergency exists requiring immediate action to protect the public health and welfare, the Director may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the Director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (B) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but on application to the Director shall be afforded a hearing as soon as possible and not later than ten days after such application by such affected person. On the basis of such hearing, the Director shall continue such order in effect, revoke it, or modify it.

(D) Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the Director shall be served on any person affected thereby in a manner provided for service of a summons in a civil action. Proof of service shall be filed in the office of the department. Every certificate or affidavit of service made and filed as provided in this section shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

(E) The hearings provided for in this section may be conducted by the Director or by any member of the department acting in his or her behalf, or the Director may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Director at any time and place. A verbatim record of the proceedings of such hearings shall be taken and filed with the Director, together with findings of fact and conclusions of law made by the Director or hearing officer. Witnesses who are subpoenaed shall receive the same fees as in civil actions in the district court and mileage as provided by law. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under the provisions of this section, the district court shall have jurisdiction, upon application of the Director, to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof. If requested to do so by any party concerned with such hearing, the full stenographic notes, or tapes of an electronic transcribing device, of the testimony presented at such hearing shall be taken and filed. The stenographer shall, upon the payment of the stenographer's fee allowed by the court therefore, furnish a certified transcript of the whole or any part of the stenographer's notes to any party to the action requiring and requesting the same.

SECTION 4. APPEAL PROCEDURE.

(A) In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing or it subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable. Opportunity shall be afforded all parties to present evidence and argument with respect thereto. The Director shall prepare an official record, which shall include testimony and exhibits, in each contested case, but it shall not be necessary to transcribe shorthand notes unless requested for purpose of rehearing, in which event the transcript and record shall be furnished by the Director upon request and tender of the cost of preparation. Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(B) IN CONTESTED CASES:

(1) The Director may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. The Director shall give effect to the rules of privilege recognized by law. The Director may excluded incompetent, irrelevant, immaterial, and unduly repetitious evidence. Any party to a formal hearing before the Director, from which a decision may be appealed to the courts of this state, may request that such Director be bound by the rules of evidence applicable in district court by delivering to such Director at least three days prior to the holding of such hearing a written request therefore. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing. All costs of a formal hearing shall be paid by the party or parties against whom a final decision is rendered;

(2) The Director may administer oaths and request to either the City Council or the County Board to issue subpoenas to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses residing either within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court;

(3) All evidence including records and documents in the possession of the Director of which the Director desires to use shall be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference;

(4) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence; and

(5) The Director may take notice of judicially cognizable facts and, in addition, may take notice of general, technical, or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material so noticed. They shall be afforded an opportunity to contest the facts so noticed. The Director may utilize the Director's own experience, technical competence, and specialized knowledge in the evaluation of the evidence.

(C) Every decision and order adverse to a party to the proceeding, rendered by the Director in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record.

(D) If the Director orders a civil penalty for any violation, the Director shall comply with the following:
   (1) After the order finding a violation under Section 3 and before issuing the final decision assessing the penalty, the Director shall give written notice to the person to be assessed a civil penalty including the amount of the penalty for the violation and an opportunity to request, within 15 days of the date the notice of penalty is received, a separate hearing on the civil penalty. The requested hearing shall be limited to the civil penalty and the factors related to the penalty, and not the underlying violation.
   (2) In determining the amount of a civil penalty, the Director shall take into account the nature, circumstances, extent, and gravity of the violation or violations and the violator's ability to pay, ability to continue to operate, prior history of violations, degree of culpability, and such other matters as justice may require.
   (3) At the separate hearing, the Director may, compromise, modify, or remit, with or without conditions, any civil penalty imposed.

(E) Civil penalties shall be paid in accordance with the Nebraska Constitution, Article VII Section 5.

(F) Any person jointly or severally aggrieve by any final decision or order by the Director may appeal to district court as provided in Neb. Rev. Stat. §15-1201 et. Seq. An aggrieved person includes a permit applicant, a person who participated in a public comment process, and any other person authorized by law to obtain judicial review of a final decision of the Director.

(G) If the Director fails to take final action within: 450 days on permit applications; 90 days on minor permit modifications; 180 days on group processed minor modifications; or 90 days on any other required action, the failure to take final action shall be a final decision subject to judicial review.

(H) State Law §15-1201 requires that a person appealing a final decision must file a notice of appeal within 30 days from the date of the order or decision.

(I) Except if ordered by court, if the Director issues a permit, the permit is not stayed during the pendency of any appeal.

SECTION 5. VARIANCE

(A) Any person who owns or is in control of any plant, building, structure, process, or equipment may apply to the Director for a variance from rules or regulations. The Director may grant such variance if he or she finds that the emissions or discharges occurring or proposed to occur do not endanger or tend to endanger human health or safety or that compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public. In making such findings the Director shall give due consideration to all the facts and circumstances bearing upon the reasonableness of the emissions or discharge involved including, but not limited to:

(1) The character and degree of injury to or interference with the health and physical property of the people;
(2) The social and economic value of the source of the pollution;
(3) The question of priority of location in the area involved; and
(4) The technical practicability and economic reasonableness of reducing or eliminating the emissions or discharges resulting from such source

(B) No variance shall be granted until the Director has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(C) Any variance or renewal thereof shall be granted within the requirements of subsection (A) of this section, for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air, water, or land pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available and subject to the taking of any substitute or alternate measures that the Director may prescribe;
(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Director, is requisite for the taking of the necessary measures. A variance granted on the ground specified in this section shall contain a timetable for the taking of action in a expeditious manner and shall be conditioned on adherence to such timetable;
(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in sub-division (1) or (2) of this subsection, it shall be for not more than one year.

(D) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Director on account of the variance, no renewal thereof shall be granted unless the Director finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least thirty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal the Director shall give public notice of such application.

(E) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the Director. The granting or denial of a variance or a renewal shall be by final order of the Director.

(F) Nothing in this section and no variance or renewal granted pursuant to this section shall be construed to prevent or limit the application of the emergency provisions and procedures of Section 8.05.070 to any person or his or her property.

(G) No variance shall be granted which will sanction any violation of state or federal statutes or regulations.

(H) The fee associated with issuance of a variance shall be charged at the rate of $75.00 per hour with a minimum fee of $75.00. The maximum fee shall not exceed $300.00.

(I) Payment of Fees - - any person required to submit fees pursuant to this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after receipt of issuance of the variance.

SECTION 6. ANNUAL FEES.

(A) Applicability -- The provisions of this Regulations and Standards section shall apply to any person who owns or operates a source as defined in Article 2, Section 1 of these Regulations and Standards and is required to obtain any one of the following: 1) A Class I or a Class II operating permit in accordance with Article 2, Section 5 of the Regulations and Standards; 2) A construction permit in accordance with Article 2, Section 17 of the Regulations and Standards; or 3) Any source subject to an applicable requirement (other than permitting) of the Regulations and Standards the nature of which necessitates that the source submit an annual emissions report and/or be the subject of an annual or biannual inspection.

(B) Calculation of Fee -- Beginning July 1, 1999, owners or operators of sources, identified in (A) above, shall pay an annual fee. The fee shall be based on the actual emission tonnage as established in the emission inventory for the previous calendar year, beginning with calendar year 1998. For purposes of this section, a pollutant which may be regulated under more than one provision of these Regulations and Standards, need only be counted once. Any temporary source issued an operating permit under Section 10 shall pay an annual fee based on emissions which occurred during the time period the source was located and operated in Lincoln or Lancaster County.

Fee Schedule:

(1) Class I sources with actual emissions equal to or greater than 100 tons per year pay only emission fees as required by Article 2, Section 29.
(2) Class I source with actual emissions less than 100 tons per year pay emission fees as required by Article 2, Section 29 plus $2,000.00.
(3) Class II synthetic minor sources pay $2,000.00.
(4) "True" Class II sources with actual emissions greater than 20 tons per year pay $1,400.00.
(5) "True" Class II sources with actual emissions between 10 and 20 tons per year pay $1,000.00.
(6) "True" Class II sources with actual emissions between 1 and 9.99 tons per year pay $500.00.
(7) "True" Class II sources with actual emissions less than 1 ton per year pay $100.00.
(8) Asbestos Removal (per project) is a $50.00 fee.

For purposes of this section, the following definitions shall apply:

Synthetic Minor shall mean a source which has accepted a federally enforceable limit to reduce its potential to emit to below the major source thresholds defined in Article 2, Section 2.

"True" Class II shall mean a source which is required by Article 2, Section 5 to obtain a Class II operating permit whose potential to emit is below the major source thresholds defined in Article 2, Section 2 without physical or operational limitations on its capacity to emit any pollutants.

The fee for a temporary source which is a Synthetic Minor shall be pro-rated based on the number of months of the operating year during which the source was located and operated in Lincoln or Lancaster County. The operating year is the number of months during the calendar year that the source was operated. Operation during any part of a month will be counted as one month's operation for fee calculation.

(C) Any person subject to the requirements of this section who fails to submit an annual emissions inventory report when required by Article 2, Section 6 of these Regulations and Standards shall pay an annual emission fee based on the source's potential to emit as defined in Article 2, Section 1 of these Regulations and Standards.

(D) Payment of Fees -- Any person required to submit fees pursuant to this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable on July 1 of each year, beginning with the calendar year 1999. All fees paid in accordance with the section shall be non-refundable.

(E) Failure to submit the fees required by this section, in addition to other relief allowed by law, shall be cause for:

(1) Revocation of the source's operating permit; and

(2) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (D) above.

(F) If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this section, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If any annual emission inventory report form which is modified pursuant to this section results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with paragraph (D) above.

(G) The rate structure will be reviewed annually by the Director, and a report submitted to the Board of Health. The Board of Health may recommend any modifications to the Lincoln City Council and the Lancaster County Board of Commissioners. The new rate structure may be adopted by Resolution of the two governing bodies, individually, as a result of a recommendation by the Board of Health, or at the initiation of either of the two governing bodies.

(H) All money collected from the permit fees, and air quality service charges provided for herein, shall be payable to the Lincoln-Lancaster County Health Department and shall be credited to the Air Pollution Control Fund.

SECTION 7. COMPLIANCE -- ACTIONS TO ENFORCE -- PENALTIES FOR NON-COMPLIANCE.

(A) The County Attorney or Attorney General may institute enforcement proceedings pursuant to Neb. Rev. Stat., §81-1504 (23)Neb. Rev. Stat. §81-1508 (4), or Nebr. Rev. Stat. §81-1528 (2) against any person who fails to comply with the requirements of the Air Pollution Regulations and Standards. Nothing in air pollution control program shall preclude the control of air pollution by resolution, ordinance, or rule, regulation, or standard not in actual conflict with the state air pollution control regulations. (Ref: Neb. Rev. Stat. §71-1631(15).)

(B) Any person who fails to comply with the requirements of the Air Pollution Regulations and Standards or who fails to perform any duty imposed by the Air Pollution Regulations and Standards shall be subject to a civil penalty of not more than $10,000 per day per violation.

(C) Any person who knowingly and willfully fails to comply with the requirements of the Air Pollution Regulations and Standards or who knowingly and willfully fails to perform any duty imposed by the Air Pollution Regulations and Standards shall be subject to felony prosecution under Neb. Rev. Stat. §81-1508(f) including a fine of not more than $10,000 per day per violation and up to a maximum six month term of imprisonment.

(D) Enforcement proceedings may include injunctive relief in court to restrain any violation that creates an imminent and substantial endangerment to the public health or to the environment.

SECTION 8. PROCEDURE FOR ABATEMENT.

If the Director has determined a violation of the Air Pollution Control Program after any hearing required hereunder or if the Director has probable cause to believe a violation has occurred, the Director shall refer the matter to the County Attorney.

SECTION 9. SEVERABILITY.

If any clause, paragraph, subsection or section of the Air Pollution Control Program shall be held invalid, it shall be conclusively presumed that the City and County would have enacted the remainder of the Air Pollution Control Program not directly related to such clause, paragraph, subsection or section.

ARTICLE 2. REGULATIONS AND STANDARDS

SECTIONS 1. DEFINITIONS.

Unless otherwise defined, or a different meaning is clearly required by context, the following words and phrases, as used in these Regulations and Standards and the related appendices shall have the following meanings:

"Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined below:

(1) In general, Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the preceding year and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, existing control equipment, and types of material processed, stored, or combusted during the selected time period.
(2) The Director may presume that the source-specific Allowable emissions for the unit are equivalent to the Actual emissions of the unit.
(3) For any emissions unit which has not begun normal operations on the particular date, Actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designee.

"Affected facility" means, with reference to a stationary source, any apparatus to which a standard of performance is specifically applicable.

"Affected source" means a source that includes one or more Affected units.

"Affected States" means all States that:
(1) Are one of the following contiguous States: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming, and in the judgment of the Director may be affected by emissions from a facility seeking a Title V permit, modification, or renewal; or
(2) Are a contiguous State within 50 miles of the permitted source.

"Affected unit" means a unit that is subject to emission reduction requirements or limitations under Section 26 of these Regulations and Standards.

"Air contaminant" or "Air contamination" means the presence in the outdoor atmosphere of any dust, fumes, mist, smoke, vapor, gas, or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

"Air pollutant" or "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant or animal life.

"Air Quality Control Region" means a region designated by the Governor, with the approval of the Administrator, for the purpose of assuring that national primary and secondary ambient air quality standards will be achieved and maintained.

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation or both) and the most stringent of the following:

(1) The applicable standards set forth in 40 CFR Part 60 (Standards of Performance for New Stationary Sources) or 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants);
(2) Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or
(3) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

"Ambient air" means the portion of the atmosphere, external to buildings, to which the general public has access.

"AP-42" refers to the Compilation of Air Pollutant Emission Factors, published by the EPA Office of Air Quality Planning and Standards.

"Applicable requirement" means except as provided in (12), all of the following as they apply to emissions units in a source required to obtain an operating permit, including requirements that have been promulgated and approved by the City of Lincoln and/or the Lancaster County Board of Commissioners through rulemaking at the time of issuance but have future effective compliance dates:

(1) Any standard or other requirement provided for in the applicable implementation plan that implements the relevant requirements of the Act, including any revisions to the plan promulgated in 40 CFR Part 52;
(2) Any term or condition of any pre-construction permit;
(3) Any standard or other requirement under Section 18 of these Regulations and Standards relating to standards of performance for new stationary sources;
(4) Any standard or other requirement established pursuant to Section 112 of the Act and regulations adopted in Sections 23, 27 and 28 of these Regulations and Standards relating to hazardous air pollutants listed in Appendix II,
(5) Any standard or other requirement of the acid rain program under Section 26 of these Regulations and Standards;
(6) Any requirements established pursuant to Section 26 of these Regulation and Standards;
(7) Any standard or other requirement governing solid waste incineration, under Section 18 of these Regulations and Standards or pursuant to Section 129 (e) of the Act;
(8) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners;
(9) Any standard or other requirement for tank vessels under Section 183(f) of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners;
(10) Any standard or other requirement to protect stratospheric ozone as promulgated pursuant to Title VI of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners; and
(11) Any national ambient air quality standard or increment or visibility requirement under Section 18 of these Regulations and Standards but only as it would apply to temporary sources permitted pursuant to Section 10 of these Regulations and Standards.
(12) "Applicable requirements under the Act" means federal regulations promulgated pursuant to the Clean Air Act, as amended, which have not been considered and adopted by the City of Lincoln or the Lancaster County Board of Commissions.

"Area source" means:

(1) For the purposes of Class I permits under Section 5, subparagraph (A)(1)(b) of these Regulations and Standards, any stationary source of hazardous air pollutants that is not a major source and as more particularly defined by National Emission Standards for Hazardous Air Pollutants promulgated under 40 CFR Part 63 and adopted by the Lancaster County Board of Commissioners.

(2) For all other purposes, any small residential, governmental, institutional, commercial, or industrial fuel combustion operation; on-site waste disposal facility, vessels, or other transportation facilities, or other miscellaneous sources, as identified through inventory techniques approved by the Director.

(3) Area source shall not include motor vehicles or non-road vehicles.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

"Best Available Control Technology" means an emission limitation or a design, equipment, work practice, operational standard or combination thereof, which results in the greatest degree of reduction of a pollutant, as determined by the Director to be achievable by a source, on a case-by-case basis, taking into account energy, public health, environmental and economic impacts and other costs.

"Board of Health" means the Lincoln-Lancaster County board of Health.

"Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

"Class I operating permit" means any permit or group of permits covering a Class I source that is issued, renewed, amended, or revised pursuant to these Regulations and Standards and meets the definition of Title V permit for purposes of the Clean Air Act.

"Class I source" means any source subject to the Class I permitting requirements of Section 5 of these Regulations and Standards.

"Class II operating permit" means any permit or group of permits covering a Class II source that is issued, renewed, amended, or revised pursuant to these Regulations and Standards.

"Class II source" means any source subject to the Class II permitting requirements of Section 5 of these Regulations and Standards.

"Commence" as applied to construction, reconstruction, or modification of a stationary source means that the owner or operator has all necessary pre-construction approvals and either has:

(1) Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time;

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

"Complaint" means any charge, a however informal, to or by the Department that any person or agency, private or public, is polluting the air or is violating the provisions of these Regulations and Standards.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Consumer Price Index or CPI" means the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year.

"Control and controlling"means prohibition of contaminants as related to air pollution.

"Control equipment" means any equipment that functions to prevent the formation of or the emission to the atmosphere of air contaminants from any fuel burning equipment, incinerator, or process equipment.

"Control strategy" means a plan to attain National Ambient Air Quality Standards or to prevent exceeding those standards.

"Department" means the Lincoln-Lancaster County Health Department

"Designated representative" means a responsible natural person authorized by the owners and operators of an Affected source and of all Affected units at the source, as evidenced by a certificate of representation submitted in accordance with subpart B of 40 CFR Part 72, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the Acid Rain Program. Whenever the term "responsible person" is used in this Ordinance it shall be deemed to refer to the "designated representative" with regard to all matters under the Acid Rain Program.

"Director" means the Health Director of the Lincoln-Lancaster County Health Department, or any representatives, agents, or employees of the Director.

"Dioxin/furans" means total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

"Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of the pollutant, or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(1) The re-heating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;
(2) The use of smoke management in agricultural or silvicultural prescribed burning;
(3) The merging of exhaust gas streams where:
    (a) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;
    (b) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the Allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or
    (c) Before July 8, 1995, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source.

(4) Episodic restrictions on residential wood burning and open burning;
(5) Techniques such as manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams, which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Draft permit" means the version of a permit for which the permitting authority offers public participation and, in the case of a Class I draft operating permit, affected state review.

"Emergency generator" means a generator whose sole function is to provide backup power when electric power from the local utility is interrupted.

"Emission data" means chemical analysis of process fuel and the manufacturing or production process, as well as operational procedure and actual nature and amounts of emissions.

"Emission limitation" and "Emission standard" mean a requirement established by a State, local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

"Emission allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement or applicable requirement under the Act that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid any of the same to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source which emits or would have the potential to emit any regulated air pollutant or any pollutant listed in Appendix II. subject to regulation under the Act. This term is not meant to alter or affect the definition of the "unit" for purposes of Title IV of the Act.

"Emissions" means releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof.

"Excessive concentrations" for the purpose of determining "good engineering practice stack height" defined elsewhere in this section, means:

(1) For sources seeking credit for stack height exceeding that established in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program (40 CFR 51.166 and 52.21), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this part shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is not feasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator.

(2) For source seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", either a maximum ground-level concentration due in whole or part of downwash, wakes or eddy effects as provided in paragraph (A) above, except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or the actual presence of a local nuisance caused by the existing stack, as determined by the Director.

(3) For sources seeking credit after January 12, 1979 for a stack height determined in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", where the Director requires the use of a field study of fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the equations in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Existing source" means equipment, machines, devices, articles, contrivances, or installations which are in being on the effective date of these Regulations and Standards.

"Federally enforceable" means all limitations, conditions, and requirements within any applicable State Implementation Plan, and permit requirements established in any permit issued pursuant to these Regulations and Standards, and any requirements in Section 18, Section 23, Section 27 and Section 28 of these Regulations and Standards which are enforceable by the Administrator.

"Final permit" means the version of a permit issued by the Department that has completed all review procedures required by Section 14 of these Regulations and Standard, and for Class I permit, Section 13 of these Regulations and Standards.

"Fixed capital cost" means the capital needed to provide all the depreciable components of a source.

"Fuel burning equipment" means any furnace, boiler, apparatus, stack and all associated equipment used in the process of burning fuel.

"Fugitive dust" means solid airborne particulate matter emitted from any source other than a flue or stack.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all animal, fruit, or vegetable waste residue which is produced by preparation, dressing, use, cooking, dealing in, or storage of meats, fish, fowl, fruits, vegetables, cereals, grains for human consumption, and coffee or tea grounds.

"General permit" means Class I or Class II operating permit that meets the requirements of Section 9 of these Regulations and Standards.

"Good Engineering Practice (GEP) Stack Height" means the greater of:

(1) Sixty-five (65) meters;

(2) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required, Hg = 2.5H, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limit, where:
Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack; and,
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

(3) For all other stacks, Hg = H + 1.5L, where:
Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack; and,
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack; and,
L = lesser dimension (height of projected width) of nearby structure(s).
Provided that the Director may require the use of a field study of fluid model to verify GEP stack height for the source; or

(4) The height demonstrated by fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

"Hazardous air pollutant" means any air pollutant:

(1) Listed in Appendix II, or

(2) To which no ambient air quality standard is applicable and which in the judgement of the Director may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Hospital waste" means discards generated at a hospital, except unused item returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment, or cremation.

"Incinerator" means any article, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. Coatings bake off ovens (burn-off furnaces) that use pyrolysis to remove coating material from parts hangers and/or other devices with similar function shall not be considered incinerators, but shall be considered process equipment.

"Insignificant activities" refers to activities and emissions that may be excluded from reporting for operating permit applications and/or emissions inventories.

"Installation" means an identifiable piece of process equipment.

"LLCAPCPRS" means the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards. This may also be referred to as the Regulations and Standards.

"LLCHD" mean the Lincoln-Lancaster County Health Department.

"Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent emission rate from either:

(1) The most stringent emission limitation contained in the implementation plan of any state for such class or category of sources (as adopted by the Lancaster County Board of Commissioners) unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category or source and adopted by the Council. These limitations, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(1) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(2) A physical change or change in the method of operation shall not include:
   (a) Routine maintenance, repair and replacement;
   (b) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Energy Regulatory Act;
   (c) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;
   (d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
   (e) Use of an alternative fuel or raw material by a stationary source which:
      (1) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166; or
      (2) The source is approved to use under any permit issued under regulations approved pursuant to 40 CFR 51.165.
   (f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR Part 51, Subpart I; or
   (g) Any change in ownership at a stationary source.

"Major stationary source or major source" means any source identified in Section 2 of these Regulations and Standards.

"Maximum achievable control technology (MACT)" means for new sources, the emission limitation reflecting the maximum degree of reduction in hazardous air pollutant emissions that is deemed achievable, which is no less stringent than the emission limitation achieved in practice by the best controlled similar source. For existing sources, the emission limitation reflecting the maximum degree of reduction in hazardous air pollutant emissions that the Director, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory, which is no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources, as determined pursuant to Section 112(d)(3) of the Act.

"Method 9" refers to a visual determination of the opacity of emissions from a stationary source as defined in 40 CFR 60, Appendix A-4.

"Minor source" means any source which is not defined as a major source in Section 2 of these Regulations and Standards.

"Modification" means any physical change in, or change in method of operation of, an affected facility which increases the amount of any air pollutant, except that;

(1) Routine maintenance, repair, and replacement (except as defined as reconstruction) shall not be considered physical changes; and

(2) An increase in the production rate or hours of operation shall not be considered a change in the method of operation unless such change would violate a permit condition.

"National standard" means either a primary or a secondary standard established pursuant to the Act.

"Nearby" means, as pertains to Good Engineering Practice Stack Height;

(1) That distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile), and

(2) For conducting demonstrations under paragraph (4) of the definition for "Good Engineering Practice (GEP) Stack Height", that distance not greater than 0.8 km (½ mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (HT) of the feature, not to exceed 2 miles if such feature achieves a height (HT) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in paragraph (3) of the definition for "Good Engineering Practice (GEP) Stack Height" or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Necessary pre-construction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

"Net emissions increase" means the amount by which the sum of the following exceeds zero:

(1) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs. An increase or decrease in actual emissions is creditable only if:

  (a) It occurs within a reasonable period, not to exceed one year, to be specified by the Director; and

  (b) The Director has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.165, which permit is in effect when the increase in actual emissions from the particular change occurs.

(3) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(4) A decrease in actual emissions is creditable only to the extent that:

  (a) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

  (b) It is federally enforceable at and after the time that actual construction on the particular change begins;

  (c) The Director has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51, Subpart I or in demonstrating attainment or reasonable further progress; and

(d) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(5) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Netting" means, for purposes of Article 2, Section 17(A)(3), the method used to calculate the difference between the potential emissions (potential to emit) associated with a replacement emission unit and the actual emissions (the average of these emissions over the most recent 24 month period) associated with the emission unit being replaced and, if applicable, any concurrent actual emissions increases and decreases associated with other equipment at the source.

"New source" means any stationary source, the construction, modification, or reconstruction of which is commenced after the publication of regulations by the Lincoln-Lancaster County Health Department or the United States Environmental Protection Agency prescribing a standard of performance which will be applicable to such source.

"Non-emergency generator" means, for purposes of Article 2, Section 17(P), a generator that may be used to produce electricity during periods when electric power from the local utility is available.

"Non-attainment area" means any area designated by the Department or the U.S. Environmental Protection Agency pursuant to Section 107 (d) of the Act as an area exceeding any National Ambient Air Quality Standard.

"Odor" means that property of an air contaminant detectable by the Department, beyond the boundary line of the property on which the source is located.

"Opacity" means a state which renders material partially or wholly impervious to rays of visible light and causes obstruction of an observer's view.

"Open burning" means the burning of any matter in such a manner that the products of combustion resulting from such fires are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J at 40 CFR Part 50 or equivalent methods.

"Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter emissions" means all finely divided solid or liquid material, other than un-combined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method, specified by the U.S. Environmental Protection Agency, or by a test method specified in an approved State Implementation Plan.

"PM_{10} emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified by the U.S. Environmental Protection Agency or by a test method specified in an approved State Implementation Plan.

"Permit modification" means a revision to a Class I or Class II operating permit that meets the requirements of Section 15 of these Regulations and Standards.

"Permit revision" means any Class I or Class II operating permit modification or administrative permit amendment.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof or any legal successor, representative, agent, or agency of the foregoing.

"Performance test" means measurements of emissions or other procedures used for the purpose of determining compliance with a standard of performance conducted in accordance with approved test procedures.

"Plan" means an implementation plan adopted by the Nebraska Department of Environmental Quality pursuant to Section 110 of the Act, to attain and maintain a national standard.

"Implementation plan" means an implementation plan adopted by the Nebraska Department of Environmental Quality pursuant to Section 110 of the Act, to attain and maintain a national standard.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Section 2 of these Regulations and Standards.

"Primary standard" means a national primary ambient air quality standard identified in Section 4 of these Regulation and Standards.

"Process" means any action, operation or treatment, and all methods and forms of manufacturing or processing, that may emit smoke, particulate matter, gaseous matter, or other air contaminant.

"Process equipment" means any equipment, device, or contrivance for changing any materials whatsoever or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants.

"Process weight" means the total weight of all materials introduced into any source operation. Solid fuels charged with be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

"Process weight rate" means for continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof. For a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the number of hours of actual process operation during such a period. Where the nature of any process or operation, or the design of any equipment, is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

"Proposed Class I operating permit" means the version of a permit that the Department proposes to issue and forwards to the Administrator for review.

"Pyrolysis" means the endothermic (absorption of heat) gasification of waste material using external energy.

"Reasonable further progress" means such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D of the Act or may reasonable be required by the Director for the purpose of ensuring attainment of the applicable ambient air quality standard by the applicable date.

"Reconstruction" means a situation where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f) (1)-(3). A reconstructed source will be treated as a new stationary source. In determining best available control technology or lowest achievable emission rate for a reconstructed source, the provisions of 40 CFR 60.15(f) (4) shall be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such source.

"Refuse" means and includes garbage, rubbish, ashes, street refuse, dead animals, vehicles and parts thereof, industrial wastes, construction wastes, sewage treatment residue, leaves, and grass, and any other waste matter or material which accumulates in the conduct of a household, business establishment, shop, or factory of any kind of nature, and any other combustible waste material containing carbon in a free or combined state.

"Region" means:

(1) An air quality control region designated by Administrator; or
(2) Any area designated by the State as an air quality control region.

"Regional Administrator" means the Regional designee appointed by the Administrator.

"Regulated air pollutant" means the following:

(1) Nitrogen oxides or any volatile organic compounds as defined in this section;
(2) Any pollutant for which a national ambient air quality standard has been promulgated;
(3) Any pollutant that is subject to any standard in Section 18 of these Regulations and Standards; and
(4) Any pollutant subject to a standard or other requirements established in Section 23 of these Regulations and Standards relating to hazardous air pollutants, including the following:
    (a) Any pollutant subject to requirements under Section 112(j) of the Act; and
    (b) Any pollutant for which the requirements relating to construction, reconstruction, and modification in Section 112(g) of the Act have been met, but only with respect to the individual source subject to these requirements.

"Regulated air pollutant for fee purposes" means any regulated air pollutant identified in the previous section, except for the following:

(1) Particulate matter, excluding PM_{10};
(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; and
(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation promulgated under Section 112(r) of the Act.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
    (a) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or
    (b) The delegation of authority to such representatives is approved in advance by the permitting authority;
(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
(3) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(4) For affected sources:
   (a) The designated representative in so far as actions, standards, requirements, or prohibitions under Section 2 of these Regulations and Standards are concerned; and
   (b) The designated representative for any other purposes under title V of the Act.

"Rule, regulation or standard" means any rule or regulation of the City of Lincoln or the Lancaster County Board of Commissioners.

"Salvage operation" means any operations conducted in whole or in part for the salvaging or reclaiming of any product or material.

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(1) Emissions from ships or trains coming to or from the new or modified stationary source; and
(2) Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

"Secondary standard" means a national secondary ambient air quality standard identified in Section 4 of these Regulations and Standards.

"Section 502(b)(10) changes" means changes that contravene an expressed permit term. Such changes do not include changes that would violate applicable requirements or applicable requirements under the Act, or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting or compliance certification requirements.

"Significant" means, as pertains to a modification in a non-attainment area, a net increase in actual emissions by a rate that would equal or exceed the following:

Pollutant and Emission Rate
Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
PM_{10}: 15 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy
Fluorides: 3 tpy
Sulfuric acid mist: 7 tpy
Hydrogen sulfide (H_2S): 10 tpy
Total reduced sulfur (including H_2S): 10 tpy
Reduced sulfur compounds (including H_2S): 10 tpy
Municipal waste combustor organics
   (Measured at total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzo furans): $3.2X10^{-6}$ megagrams per year (3.5×10^{-6} tons per year)
Municipal waste combustor metals
   (Measured as particulate matter): 14 megagrams per year (15 tons per year)
Municipal waste combustor acid gases
   (Measured as sulfur dioxide and hydrogen chloride): 35 megagrams per year (40 tons per year)
Municipal solid waste landfill emissions
   (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

"Source" means any factory, grain elevator, machine, industrial plant, real or personal property, or person contributing to air pollution.

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Stack height" means the distance from the ground level elevation of a stack to the elevation of the stack outlet.

"Stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard of performance" means a standard for emission of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Director determines has been adequately demonstrated.

"Startup of operation" means the beginning of routine operation of an affected facility.

"State" means any non-federal permitting authority, including any local agency, interstate association, or statewide program.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation by this Ordinance or these Regulations and Standards.

"Title V Program" means a program approved by the Administrator for purposes of Title V of the Act.

"Type 4 waste" (pathological) means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding, if applicable.

Type 5 waste" (hospital/medical/infectious) means hospital waste as defined in this section and any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that are listed as follows:

(1) Cultures and stocks of infectious agents and associated biologicals;
(2) Human pathological waste;
(3) Human blood and blood products;
(4) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories;
(5) Animal waste;
(6) Isolation wastes; and
(7) Unused sharps.

Examples of the 7 waste types previously listed are included in the definition of medical/infectious waste at 40 CFR Part 60 Subpart E Section 60.51c.

Type 5 waste does not include hazardous waste identified or listed under the regulation in Part 261 of Title 40 Chapter I of the CFR; household waste as defined in Section 261.4(b)(1) of Chapter I; ash from incineration of Type 5 waste once the incineration process has been complete, human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage material identified in Section 261.4(a)(1) of Chapter I.

"Volatile organic compound (VOC)" means any compound or carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other that the following, which have been determined to have negligible photochemical reactivity:

Acetone
1-chloro-1,1-difluoroethane (HCFC-142b)
Chlorodifluoromethane (CFC-22)
1-chloro-1-fluoroethane (HCFC-151a)
Chlorofluoromethane (HCFC-31)
Chloropentafluoroethane (CFC-115)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
Dichlorodifluoromethane (CFC-12)
1,1-dichloro-1-fluoroethane (HCFC-141b)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
1,1-difluoroethane (HFC-152a)
Difluoromethane (HFC-32)
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3,-heptafluoropropane [$(CF_3)_2CFCF_2OCH_3$]
Ethane
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane [$(CF_3)_2CFCF_2OC_2H_3$]
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutant($C_4F_9OC_2H_5$)
Ethylfluoride (HFC-161)
1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
Methane
Methyl acetate
Methylene chloride (dichloromethane)
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$)
Parachlorobenzotrifluoride (PCBTF)
1,1,1,3,3-pentafluorobutane (HFC 365mfc)
Pentafluoroethane (HCFC-125)
1,1,1,2,3,-pentafluoropropane (HFC-245eb)
1,1,2,2,3-pentafluoropropane (HFC-245ca)
1,1,2,3,3-pentafluoropropane (HFC-245e)
1,1,1,3,3-pentafluoropropane (HFC-245fa)
Tetrachloroethylene (PERC)
1,1,1,2-tetrafluoroethane (HFC-134a);
1,1,2,2-tetrafluoroethane (HFC-134);
1,1,1-trichloroethane (methyl chloroform);
Trichlorofluoromethane (CFC-11);
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-11)
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123)
1,1,1-trifluoroethane (HFC-143a);
Trifluoromethane (FC-23);
Volatile methyl siloxanes (VMS) and
Perfluorocarbon compounds which fall into the following classes:

(a) Cyclic, branched, or linear, completely fluorinated alkanes;
(b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
(d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

SECTION 2. MAJOR SOURCES -- DEFINED.

(A) Hazardous Air Pollutants--A major source of hazardous air pollutants is defined as:
(1) For pollutants other than radionuclides, any stationary source or any group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant listed in Appendix II, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions form any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants. All fugitive emissions must considered in determining whether a stationary source is a major source.
(2) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) Except as otherwise expressly provided herein, a major stationary source of air pollutants is one that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of this subsection, unless the source belongs to one of the following categories of stationary source:
(1) Coal cleaning plants (with thermal dryers);
(2) Kraft pulp mills;
(3) Portland cement plants;
(4) Primary zinc smelters;
(5) Iron and steel mills;
(6) Primary aluminum ore reduction plants;
(7) Primary copper smelters;
(8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(9) Hydrofluoric, sulfuric, or nitric acid plants;
(10) Petroleum refineries;
(11) Lime plants;
(12) Phosphate rock processing plants;
(13) Coke oven batteries;
(14) Sulfur recovery plants;
(15) Carbon black plants (furnace process);
(16) Primary lean smelters;
(17) Fuel conversion plants;
(18) Sintering plants;
(19) Secondary metal production plants;
(20) Chemical process plants;
(21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal units per hour heat input;
(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(23) Taconite ore processing plants;
(24) Glass fiber processing plants;
(25) Charcoal production plants;
(26) Fossil-fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;
(27) All other stationary source categories regulated by a standard promulgated under Section 18, Section 23, Section 27, or Section 28 of these Regulations and Standards, regardless of the date of promulgation of the standard;
(28) Concrete batch plants;

(29) Grain handling facilities that are not regulated by a standard under Section 18; or
(30) Roofing granule production plants.

Unless expressly prohibited by other applicable requirements of these Regulations and Standards or the Act, fugitive emissions associated with a major or minor source, including those associated with mobile sources (excluding evaporative emissions), may be considered in making permit applicability determinations.

(C) A major stationary source of air pollutants is defined as one which emits, or has the potential to emit 5 tons per year or more of lead.

(D) Any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source, shall be considered a major stationary source, if the change by itself would constitute a major stationary source.

(E) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(F) A major stationary source for purposes of Section 17, paragraph M) of these Regulations and Standards includes:
(1) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements under Section 182(f) of the Act do not apply;
(2) For ozone transport regions established pursuant to Section 184 (control of ozone or interstate ozone pollution) of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
(3) For carbon monoxide non-attainment areas:
(a) That are classified as "serious," and
(b) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
(4) For particulate matter (PM_{10}) non-attainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM_{10}.

(G) Major source, for purposes of Class I operating permits, means any stationary source (or group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons) under common control)) belonging to a single major industrial grouping and that are described in paragraph (A), (B), (C), (D), (E), or (F) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(H) Major stationary source for the purposes of prevention of significant deterioration of air quality shall have the meaning given in Section 19 of these Regulations and Standards.

(I) Major source of particulate matter, for purposes of Class I operating permits, shall be determined based on the potential to emit PM_{10}.

Ref: Title 129, Chapter 2, Nebraska Department of Environmental Quality

SECTION 3: RESERVED

SECTION 4. AMBIENT AIR QUALITY STANDARDS

The ambient air quality standards for Lancaster County, Nebraska are:

(A) (1) PM_{10}.
Primary and secondary standards.
50 micrograms per cubic meter annual arithmetic mean.
150 micrograms per cubic meter 24 hour average with not more than one exceedance per year.
(Attainment of these standards are determined in accordance with Appendix K of 40 CFR Part 50 which is adopted and incorporated herein).

(2) $PM_{2.5}$
Primary and secondary standards
15.0 micrograms per cubic meter annual arithmetic mean
65 micrograms
24 hours average
(Attainment of these standards are determined in accordance with Appendix N of 40 CFR Part 50 which is adopted and incorporated herein.)

(B) Sulfur dioxide

(1) Primary standards:

(a) 80 micrograms per cubic meter (0.03 ppm) annual arithmetic mean.

(b) 365 micrograms per cubic meter (0.14 ppm) maximum 24 hour concentration not to be exceeded more than once a year.

(2) Secondary standard:

(a) 1300 micrograms per cubic meter (0.5 ppm) as a 3-hour concentration not to be exceeded more than once a year.

(C) Nitrogen dioxide
Primary and secondary standards:
100 micrograms per cubic meter (0.05 ppm) annual arithmetic mean.

(D) Carbon monoxide
Primary and secondary standards:

(a) 10 milligrams per cubic meter (9 ppm) as a maximum 8-hour concentration not to be exceeded more than once a year.

(b) 40 milligrams per cubic meter (35 ppm) as a maximum 1-hour concentration not to be exceeded more than once a year.

(E) Ozone
Primary and secondary standard:
235 micrograms per cubic meter (.12 ppm) as a maximum 1-hour concentration not to be exceeded more than one day a year. (Attainment of this standard is determined; in accordance with Appendix H of 40 CFR Part 50; which is adopted and incorporated herein).

(F) Lead
Primary and secondary standard:
1.5 micrograms per cubic meter calendar quarter arithmetic mean.

SECTION 5. OPERATING PERMITS -- WHEN REQUIRED

(A) Applicability and Scope. -- The following sources are required to obtain operating permits unless exempted under Paragraph (B) below:

(1) Class I major source permits shall be required to operate any of the following:

(a) Any major source as defined in Section 2 of these Regulations and Standards:

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under Section 18 of these Regulations and Standards.

(c) Any source, including an area source, subject to a standard or other requirement under Section 23, Section 27, or Section 28 of these Regulations and Standards;

(d) Any affected source;

(e) Any source in a source category designated by the Director or required to do so by any other applicable requirement under these Regulations and Standards or the Act.

(2) Unless a Class I permit is required, Class II minor source permits shall be required to operate any of the following:

(a) Any source or emissions unit having a potential to emit:

(1) Fifteen (15) tons/year or more of PM_{10} emissions.

(2) Forty (40) tons/year or more of SO_2 or SO_3, or any combination of the two.

(3) Forty (40) tons/year more of Oxides of Nitrogen (calculated as NO_2).

(4) Forty (40) tons/year or more of volatile organic compounds (VOC).

(5) Fifty (50) tons/year or more of carbon monoxide.

(6) Six-tenths (0.6) tons/year or more of lead.

(7) Two and one-half (2.5) tons/year or more of any hazardous pollutant or an aggregate of ten (10) tons/year or more of any hazardous air pollutants.

(b) All incinerators used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units used only for disposal of residential waste generated on the residential premises where the incinerator is located.

(B) Source Category Exemptions

(1) In accordance with 40 CFR Part 70, Section 70.3(b)(1) and (2) as related to Section 70.3(a)(2) all sources listed in paragraph (A) above that are not major sources, or affected sources, are exempt from the obligation to obtain a Class I permit unless required to do so under another applicable requirement of these Regulations and Standards or under the Act.

(2) The following sources are exempt from applying for and having a Class I or II operating permit:

(a) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(b) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, paragraph 61.145, Standard for Demolition and Renovation.

(c) All sources and source categories subject only to regulations or requirements under Section 112(r) of the Act.

(d) All sources and source categories that would be required to obtain a permit solely because of the presence of an emergency generator. This exemption is unavailable to peaking units at electric utilities and any other generator which is used during time periods when power is available from the utility.

(C) Emissions Units Covered.

(1) Sources required to obtain an operating permit under these Regulations and Standards shall identify all relevant emission units in the permit application unless the emissions unit is specifically exempted pursuant to Section 7(F)(3) and (4). Emissions that have been exempted from reporting requirements because the emissions unit is an insignificant activity must still be included in the determination of whether a source must obtain a Class I or Class II operating permit.

(2) A source required to obtain an operating permit under these Regulations and Standards may comply through one of the following methods:

(a) The source may obtain a single permit for all relevant emission points located within a contiguous area under common control, whether or not falling under the same two-digit SIC code; or

(b) The source may request and obtain coverage for one or more emission points eligible for coverage under a general permit issued by the Department and obtain a separate permit for emission points not eligible for such coverage.

(D) Fugitive Emissions. Fugitive emission from a source shall be included in the permit application and covered in the operating permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(E) Except as provided in Section 12 paragraph B) of these Regulations and Standards, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under an approved operating permit program. If an operating source submits a timely and complete application for permit issuance, or for renewal, the source's failure to have a permit is not a violation of these Regulations and Standards or the Act until the Department takes final action on the permit application, provided that the failure to have a permit is through no fault of the source. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to Section 7, paragraph ©) of these Regulations and Standards, the applicant fails to submit any additional information necessary to process the application within the deadline specified in writing by the Department.

(F) The submittal of a complete Class I or II operating permit application shall not affect the requirement that any source have a pre-construction permit as may be required by these Regulations and Standards.

Ref: Title 129, Chapter 5, Nebraska Department of Environmental Quality

SECTION 6. EMISSIONS REPORTING - WHEN REQUIRED

(A) Every source subject to a permit requirement under Section 5 or Section 17 of these Regulations and Standards shall complete and submit to the Department an annual emissions inventory on forms furnished by or acceptable to the Department by March 31, and shall include emission information for the previous calendar year. This requirement applies whether or not a permit application has been filed or a permit issued. The inventory form shall be certified in accordance with Section 7, paragraph (h) of these Regulations and Standards.

(B) The annual emissions inventory form shall include the following information:
- (1) The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
- (2) A description of the existing or proposed facilities, modifications or operations including all processes employed; normal hours of operation; the nature and amounts of fuel and other materials involved; the probable nature, rate of discharge, and time duration of contaminant emissions; any such other information as is relevant to air pollution control and available or capable of bing assembled in the normal course of operation; and, if required by the Director, ambient air quality and meteorological data.
- (3) The actual quantity of emissions, including documentation of the method of measurement, calculation or estimation, of:
  - (a) Any single regulated non-hazardous air pollutants in a quantity greater than one ton.
  - (b) Any single regulated hazardous air pollutant in a quantity greater than the reporting level listed in Appendix III.
  - (c) Any combination of regulated non-hazardous air pollutants or any combination of regulated hazardous air pollutants in a quantity greater than 2.5 tons in each case.

(C) Actual emissions as defined in Section 1 of these Regulations and Standards shall be calculated using one of the following methods, as appropriate:
- (1) Any test method or procedure identified in Section 34 of these Regulations and Standards;
- (2) Continuous emission monitor (CEM) data, provided that:
  - (a) The CEM operation is, and has been for the reporting period, in compliance with all applicable requirements under the Act;
  - (b) The total operating time of the applicable emission unit and the CEM are included in the inventory report; and
  - (c) The report includes an explanation of how the emissions were calculated using CEM data.
- (3) Any applicable method identified in the Compilation of Air Pollutant Emission Factors, Volume I, Stationary Point and Area Sources, Fifth Edition;
- (4) Any applicable method identified in Factor Information Retrieval System Version 5.0 Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA-454/R-95-012, August 1995; or
- (5) A material mass balance equation.

(D) Except as otherwise provided in (C) above, any other test methods and procedures for use in determining Actual emissions must be approved by the Director.

(E) The Director may require the submittal of supplemental information to verify or otherwise assure the quality of emissions reported.

Ref: Title 129, Chapter 6 Nebraska Department of Environmental Quality

SECTION 7. OPERATING PERMITS -- APPLICATION

(A) Duty to Apply. The owner or operator of any source required to obtain a Class I or Class II operating permit shall submit a timely and complete application in accordance with this Section.

(B) Timely Application
- (1) Sources that are required to obtain a Class I operating permit shall file applications in accordance with the following schedule:
  - (a) For the purpose of early submission of applications and processing of permits, the Department shall create and maintain an early permit application registry. The registry will be open for the first three months after the effective date of these Regulations and Standard. Sources may request to be placed on the registry on a first come, first served basis as of the date the request is received by the Department. If necessary, the Department will complete the registry with additional sources. These additional sources will be notified of their placement on the registry. Sources on this registry shall file a complete application with the Department, but no later than September 30, 1995.
  - (b) All other existing sources not on the registry shall file an application by November 17, 1996.
- (2) A source that becomes subject to the Class I operating permit program at any time following the effective date of these regulations shall file an application within 12 months of the date on which the source first becomes operational or otherwise subject to the Title V program.
- (3) A source that is required to meet the requirements under Sections 27or 28 of these Regulations and Standards, or to have a permit under a pre-construction review program under Section 17 or Section 19 of these Regulations and Standards, shall file a complete application for a Class I or Class II operating permit, if so required, within 12 months after the source begins operation. Where an existing operting permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operating.
- (4) Sources that are required to obtain a Class II operating permit shall file applications within twelve months of the effective date of adoption of these Regulations and Standards, or within twelve months of the date on which the source first become operational or otherwise subject to the requirement to obtain a permit.
- (5) A source issued an operating permit before November 1, 1993, may continue to operate as provided in the existing permit provided that the source has submitted a timely and complete application, until either of the following occurs:
  - (a) The operating permit is terminated.
  - (b) The Director issues or denies a Class I or Class II permit to the source.
- (6) For purposes of permit renewal, a timely application is one that is submitted at least 6 months prior to the date of permit expiration or such longer time as may be approved by the Director after notice to the permittee that ensures that the permit will not expire before the permit is renewed. In no event shall this time be greater than 18 months.
- (7) Applications for initial phase II acid permits hall be submitted:
  - (a) by January 1, 1996, for sulfur dioxide, and
  - (b) by January 1, 1998, for oxides of nitrogen.

(C) Complete Application for Class I and Class II permits.
- (1) An application will be deemed complete if it provides all the information required and is sufficient to evaluate the subject source and its application and to determine all applicable requirements. For purposes of this section only, applicable requirements include applicable requirements under the Act. The application shall be certified by a responsible official for the source.
- (2) The Department shall determine that an application is complete within 60 days after receipt of the application. If the Department determines that the application is not complete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that an application is complete, but later determine that additional information is needed to evaluate or take final action on the application.

(3) If the Department does not determine that the application is not complete, the application is automatically deemed to be complete 60 days after it was received by the Department. Nothing in this section shall prohibit the Department from requesting additional information that is necessary to evaluate or take final action on the application or release the applicant from providing such information.

(4) A source which has submitted a timely and complete application may continue to operate without a permit from the date the application is determined to be complete until the final action on the application is taken, provided that the applicant submits any requested additional information by the deadline established by the Department.

(D) Confidential Information for Class I and Class II permits. A source which has submitted information to the Department under a claim of confidentiality, may be required by the Department to submit a copy of such information to the EPA. Confidential information must be submitted separately. The permit application, compliance plan, schedule of compliance, monitoring reports, certification, and issued permits shall be available to the public. Emissions data shall not be entitled to confidential protection.

(E) Duty to Supplement or Correct Application for class I and Class II permits.--Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional informational necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(F) Class I permits - Standard Application Form and Required Information.

(1) The owner or operator of a source required to obtain a Class I operating permit shall submit an application on standard forms available from the department.

(2) The applicant is required to include the following information on the standardized application form or in attachments:

(a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and the names of plant site manager/contact. If the company is located on leased property, the name of the property owner shall be provided.

(b) A description of the source's processes and products (by Standard Industrial Classification Code as published by the Executive Offices of the President's Office of Management and Budget, and Source Classification Code as published by EPA's Office of Air Quality Planning and Standards) including any associated with an alternate scenario identified by the source.

(c) The following emission-related information for each emissions unit:

(1) All emissions, both actual and potential, of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are specifically exempted from listing these units in the application. The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule. This information shall be provided for each operating scenario identified by the source.

(2) Identification and description of all points of emissions described in subparagraph (F) (2) (c) (1) above in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

(3) Emissions rate in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method or alternative method as approved by the Director.

(4) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules.

(5) Identification and description of air pollution control equipment and compliance monitoring devices or activities.
(6) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Class I source.
(7) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 16 of these Regulations and Standards.
(8) Calculations on which the information in the above paragraphs is based.
(9) The applicant shall indicate any emission points at the facility for which the applicant intends to request coverage under a general permit.

(d) The following air pollution control requirements:
(1) Citation and description of all applicable requirements, and
(2) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(e) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or these Regulations and Standards or to determine the applicability of such requirements.

(f) An explanation of any proposed exemptions from otherwise applicable requirements.

(g) Additional information as determined to be necessary by the permitting authority to define alternate operating scenarios identified by the source of to define permit terms and conditions related to modifications which do not require a permit revision.

(h) A compliance plan for all Class I source that contains all the following:
(1) A description of the compliance status of the source with respect to all applicable requirements.
(2) A description as follows:
(a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
(b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
(c) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
(3) A compliance schedule as follows:
(a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
(b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
(c) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such schedules shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in non-compliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.
(4) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(5) The compliance plan content requirements specified in these paragraphs shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(i) Requirements for compliance certification, including the following:

(1) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (H) of this section;

(2) A statement of methods used for determining compliance, including a description of monitoring, record keeping and reporting requirements and test methods;

(3) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department in any permit; and

(4) A statement indicating the source's compliance status with any applicable compliance assurance or periodic monitoring and compliance certification requirements of these Regulations and Standards.

(j) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(k) The source may request the permit shield described in Section 8, paragraph N of these Regulations and Standards.

(3) The Director may develop a list of insignificant activities excepted from the requirements of Sections (F)(2) of this Section and Section (6)(B). The list shall be made available by the Department and updated as necessary. The Director may consider the following criteria in developing the list of insignificant activities

(a) Support activities (e.g., janitorial, cafeteria or laundry) may be listed as insignificant if they are not themselves marketed or traded, and do not use equipment or material of a size or nature that are themselves subject to an applicable requirement under the Act or these Regulations and Standards;

(b) Activities or emissions units which can be determined to result in air contaminant emissions less than those specified in Section 5 (A)(2) bases on size, capacity or an expectation of incidental usage (e.g., back-up generators) may be determined to be insignificant. The Director may consider standard industrial practices and the results of rulemaking efforts under the Act in establishing such thresholds;

(c) Laboratory and research and development (R & D) activities may be listed as insignificant activities only if conducted in the nonprocess areas of the facility. If the principal activity of a site is laboratory services or R & D activities for other locations or under contract, such activities cannot be insignificant;

(d) AP-42 emission factors or comparable data may be considered when determining insignificant use or storage thresholds. For hazardous air pollutants, the Director may consider any deminimis emission level established by the EPA under Section 112(g) of the Act or a storage or use level established in any federal or state standard.

(4) The list of insignificant activities shall describe classes of activities that may be excluded from the permit application or only listed with a limited amount of support data. The list must specify the following:

(a) The applicant must provide all such information necessary to determine if a specific activity, piece of equipment or group of items is subject to an applicable requirement under the Act or these Regulations and Standards, if requested; and

(b) The inclusion of an activity, emission unit or specific use of storage of a regulated pollutant on the list does not absolve an applicant from any applicable requirements under the Act or these Regulations and Standards to which such activity or emission unit is otherwise subject.

(G) Class II permits - Standard Application Form and Required Information.
- (1) Identifying information, including company name and address, and plant name and address, if different, owner's name and address, and telephone number, and names of plant site manager or contact;
- (2) A description of the source's processes and products, including Standard Industrial Codes;
- (3) Emissions-related information, including:
  - (a) Emissions of regulated pollutants emitted from any emission unit,
  - (b) Identification and description of all emission units,
  - (c) Emissions rate, both in actual and potential, in tpy,
  - (d) The following information if needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules,
  - (e) Identification and description of air pollution control equipment and compliance monitoring devices or activities,
  - (f) Limitations on source operation affection emissions, including physical or operational limitations on potential to emit,
- (4) Specific information that may be necessary to implement and enforce any applicable requirement;
- (5) An explanation of any proposed exemption from an applicable requirement; and
- (6) Additional information determined to be necessary by the Department to define permit terms and conditions.
- (7) Insignificant activities listed for exclusion in the permit application pursuant to sections (F) (3) and (F) (4) of this section shall be treated as specified by those sections.

(H) Certification for Class I and Class II permits. Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under these regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(I) The Department shall approve or disapprove a completed application for a Class I source and shall issue or deny the permit within 18 months after the date of receipt thereof. This requirement does not apply to sources submitting applications under the provisions of subparagraph (B) (1) of this section.

(J) Applications for construction or modification under Section 19 of these regulations and Standards relating to the Prevention of Significant Deterioration of Air Quality, and for any implementation plan requirements for non attainment areas, shall be given a priority.

(K) The Department shall prepare a statement that sets forth the legal and factual basis for the Class I draft permit conditions, including references to the applicable statutory and regulatory provisions. This statement shall accompany the draft permit sent to EPA, and be made available to any persons who requests it.

(L) The submittal of a complete application shall not affect the requirement that any source have a pre-construction permit under Section 17 and Section 19 of these Regulations and Standards

Ref: Title 129, Chapter 7, Nebraska Department of Environmental Quality

SECTION 8. OPERATING PERMIT -- CONTENT

(A) Each Class I Operating Permit shall include the standard permit requirements in paragraphs (B) through (K) of this Section.

(B) Emission limitations and standards. Each permit shall specify emission limitations and standards, including those operational requirements and limitations that assure compliance with all requirements applicable at the time of permit issuance.
- (1) The permit shall specify and reference the origin of, and authority for, each term or condition. In addition, it shall identify any difference to the terms or conditions as compared to the applicable requirement upon which the term or condition is based.
- (2) Where an applicable requirement is more stringent than an applicable requirement specified in Section 26 of these Regulations and Standards, both provisions shall be incorporated into the permit.
- (3) If an applicable implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance equivalent to that contained in the plan, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicated procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(C) Permit duration
- (1) Class I and Class II operating permits shall be issued for a fixed term not to exceed 5 years;
- (2) The term of a permit shall not be extended by modification beyond the maximum duration specified except that the conditions of an expiring permit shall continue until the effective date of a new permit in accordance with Section 12 of these Regulations and Standards, provided that:
  - (a) The permittee has submitted a timely application (except as provided in (C)(3)) which has been deemed complete by the Department, and
  - (b) The Director, through no fault of the permittee, does not issue a new permit with an effective date before the expiration date of the previous permit.
- (3) A Class II permittee who has failed to submit a permit renewal application by the deadline established in the current permit may apply for a variance in order to have the conditions of an expiring permit extended until the effective date of a new permit. The variance request shall be submitted no later than 30 days after the deadline for submittal of the permit renewal application and according to the requirements of Article 1, Section 5 of the Regulations and Standards. The Director may grant a variance of up to 60 days to submit the permit renewal application.

(D) Monitoring and related record keeping and reporting requirements.
- (1) Each Class I permit shall contain the following monitoring requirements:
  - (a) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods established in Section 21 of these Regulation and Standards or pursuant to any permit or order issued by the Director under these Regulation and Standards.
  - (b) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.
  - (c) As necessary, requirements concerning the use, maintenance, and installation of monitoring equipment or methods and quality assurance and control procedures.

(2) Each Class I permit shall incorporate all applicable record keeping requirements and require, if necessary, the following:
   (a) Records of required monitoring information that include the following:
      (1) The date and place as defined in the permit, and time of sampling or measurements;
      (2) The date(s) analyses were performed;
      (3) The company or entity that performed the analyses;
      (4) The analytical techniques or methods used;
      (5) The results of such analyses; and
      (6) The operating conditions existing at the time of sampling or measurement.
   (b) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. The permit may specify that records may be maintained in computerized form.

(3) Each Class I permit shall corporate all applicable reporting requirements and require the following:
   (a) Submittal of reports of required monitoring at least every 6 months. All instances of deviation from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official in accordance with Section 7, paragraph (H) of these Regulations and Standards.
   (b) Reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permit shall require reporting of deviations as follows:
      (1) Any deviation resulting from emergency or upset conditions as defined in Section 11 of these Regulations and Standards shall be reported within two working days of the date on which the permittee first becomes aware of the deviation, if the permittee wishes to assert the affirmative defense authorized under said section;
      (2) Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable;
      (3) Any other deviations that are identified in the permit as requiring more frequent reporting than the permittee's semi-annual report shall be reported on the schedule specified in the permit.
      (4) All reports of deviations shall identify the probable cause of the deviations and any corrective actions or preventative measures taken.

(4) Every report submitted under Subparagraph (D) (3) shall be certified by a responsible official, except that of a deviation required under subparagraph (D) (3) (b) of this section must be submitted within ten days of the deviation, the report may be submitted initially without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the deviation.

(E) Acid Rain. Each Class I permit issued to an Affected source shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the Act.
   (1) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Title IV acid rain program developed under the Act, provided that such increases do not require a permit revision under any other applicable requirement.
   (2) No limit shall be placed on the number of allowances held by the source.
   (3) The allowances a source possesses shall not be a defense to noncompliance with any other applicable requirement.
   (4) Any allowances shall be accounted for according to procedures established in Section 26 of these Regulations and Standards.

(F) Severability. Each Class I and Class II permit shall contain a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(G) General conditions. Each permit shall contain the following provisions:

(1) The permittee must comply with all conditions of the Class I and Class II permit. Any permit noncompliance shall constitute a violation of these Regulations and Standards and the Act, and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(2) It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(3) The permit may be modified; revoked, reopened, and reissued; or terminated for cause in accordance with the provisions of these Regulations and Standards. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not supersede any permit condition.

(4) The permit does not convey any property rights of any sort, or any exclusive privilege.

(5) The permittee shall furnish to the Department, within the time specified by the Department, any information requested by the Department in writing to determine whether cause exists for modifying, revoking and reissuing; or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Department, copies of records required to be kept in accordance with the permit or, for information claimed to be confidential, the permittee may furnish such records along with a claim of confidentiality pursuant to, Nebraska Revised Statute 84-712.05.

(6) The provisions of a permit issued under these Regulations and Standards supersede the provisions of any previously issued operating or construction permit.

(H) Fees. Each Class I permit shall contain a provision to ensure that a major source of regulated pollutants pay fees to the Department consistent with the fee schedule in Section 29 of these Regulations and Standards.

(I) Alternative operating scenarios. Each permit shall contain terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. Such terms and conditions:

(1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which the source is operating;

(2) Must ensure that the terms and conditions of each alternative scenario meet all applicable requirements and the requirements of the permit ; and

(3) The permit shield, if requested, described in paragraph (N) of this section shall apply to all terms and conditions under each such operating scenario.

(J) Reopening for cause. Each permit shall include provisions specifying the conditions under which the permit will be reopened, revoked and reissued, or terminated, in accordance with Section 15, paragraph (F) of these Regulations and Standards.

(K) Risk Management Plans. If the source is required to develop and register a risk management plan pursuant to Section 112(r) of the Act or these Regulations and Standards, the permit will specify that the permittee will comply with the requirement to register such a plan. The content of the risk management plan will not be incorporated as a permit term. The permit shall require:

(1) Verification of the plan preparation and submittal to the Department, the State Emergency Response Commission, and any local Emergency Planing Committee; and

(2) Annual Certification in accordance with Section 7, paragraph (F)(2)(i)(3) of these Regulations and Standards that the risk management plan is being properly implemented.

(L) Compliance requirements. All Class I operating permits shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (D) above, compliance certification. testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including reports, required by a Class I permit shall contain a certification by a responsible official that meets the requirements of Section 7, paragraph (H) of the Regulations and Standards.

(2) Inspection and entry requirements that require the permittee to allow the Department, EPA or an authorized representative, upon presentation of credentials and other documents, to:

(a) Enter upon the permittee's premises at reasonable times where a source subject to a Class I operating permit is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, pollution control equipment, including monitoring and air pollution control equipment, practices, or operations regulated or required under the permit, and

(d) Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(3) A schedule of compliance consistent with Section 7, subparagraph (F) (2) (h) of these Regulations and Standards.

(4) Progress reports consistent with an applicable schedule of compliance and Section 7, subparagraph (F) (2) (h) of these Regulations and Standards, to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Director. Such progress reports shall contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not met, or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms an conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(a) The frequency, not less than annually or such more frequent periods as specified in the applicable requirement or by the Department, or submissions of compliance certifications;

(b) In accordance with paragraph (D) above, a means of monitoring the compliance of the source with its emissions limitations, standards and work practices;

(c) A requirement that the compliance certification include the following:

(1) The identification of each term or condition of the permit that is the basis of the certification;

(2) The compliance status;

(3) A determination of whether compliance was continuous or intermittent;

(4) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with the paragraph (D) above; and

(5) Such other facts as the Department may require to determine the compliance status of the source;

(d) A requirement that all compliance certifications be submitted to the Administrator as well as to the Department; and

(e) Such additional requirements as may be specified pursuant to these Regulations and Standards, or the applicable Implementation Plan, or any permit issued under these Regulations and Standards.

(M) The Director may place such conditions and restrictions upon a permit issued or renewed under this section as he or she deems necessary to protect public health or the environment. Such conditions or restrictions may be placed upon the permit at the time it is issued, modified, or renewed. By the way of example, and not of limitation, such conditions or restrictions may be new federal applicable requirements not yet adopted in these Regulations and Standards.

(N) Permit Shield for Class I Permits.

(1) If requested in the permit application, the permit shield provided in this section shall be included in the permit.

(2) The permit shield shall provide that compliance with a permit during its term constitutes compliance with all applicable requirements identified pursuant to Section 7 of these Regulations and Standards as of the date of permit issuance, provided that:

(a) Such applicable requirements are included and specifically identified in the permit; or

(b) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination.

(3) The permit shield does not affect:

(a) The provisions for granting variances;

(b) Liability for any violation of applicable requirements, or applicable requirements under the Act, prior to or at the time of permit issuance;

(c) The applicable requirements of Section 26 of these Regulations and Standards;

(d) The authority of the Department or EPA to obtain information; or

(e) Any other permit provisions, terms, or conditions, including, but not limited to, construction permits issued pursuant to Section 17 of these Regulations and Standards or permits issued pursuant to other states or local ordinances, rules or regulations.

(4) A Class I permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(O) Each Class II operating permit shall include those permit requirements applicable to Class II sources and any additional requirements which the Director deems appropriate, including but not limited to, the following:

(1) Emissions limitations and standards which are at least as stringent as any applicable requirement or other requirements contained in the State Implementation Plan.

(2) Monitoring and related record keeping and reporting requirements.

(3) Compliance certification, testing, monitoring, reporting, and record keeping requirements.

(P) All terms and conditions in a Class I and Class II operating permit, including any provisions designed to limit a source's potential to emit, are enforced by the Administrator and citizens under the Act except those terms and conditions which have been specifically designated as not federally enforceable under paragraph (Q) below.

(Q) Each Class I permit shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements.

(R) If an applicable requirement provides for the trading of increases and decreases of emissions without a case-by-case approval of each emissions trade, and if requested by the applicant in its permit application, the Director shall establish terms and conditions for the trading of such emissions increases and decreases within the permitted facility. Such terms and conditions shall include all terms required by these Regulation and Standards to determine compliance and must meet all terms specified in the applicable requirement which allows such trading.

(S) If an applicant requests in its application, the Director shall establish terms and conditions in the permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions from emissions units which are not quantifiable and for which there are no replicable procedures shall not be included in any trades. The permit shall also require compliance with all applicable requirements.

Ref: Title 129, Chapter 8, Nebraska Department of Environmental Quality

SECTION 9. GENERAL OPERATING PERMITS FOR CLASS I AND II SOURCES

(A) If the Director determines that numerous similar sources are subject to identical regulatory requirements, the Director may issue a general permit following the procedures specified in these Regulations and Standards and the applicable procedures of Section 13 and Section 14 of these regulations and Standards. The Director shall not issue general permits for affected sources under the acid rain program.

(B) If the Director, in his or her discretion, determines a general permit is appropriate, he or she shall initiate issuance of a general permit by publication of a notice which identifies the criteria for sources that qualify for the general permit. The notice shall be published in a newspaper of general circulation and shall announce the availability of a draft general permit for public review and comment for 30 days.

(C) The public notice of the draft general permit shall contain:
- (1) Name, address, and telephone number of the Department;
- (2) A brief description of the activities and/or operations addressed by the permit;
- (3) A statement of the criteria for sources that qualify for the permit;
- (4) A brief description of the comment procedures and the time and place of any hearing if already scheduled, including the procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final general permit decision; and
- (5) The name, address, and the telephone number of the person from who interested persons may obtain further information, and inspect and copy forms and related documents.

(D) Any interested person shall have 30 days from issuance of the public notice within which to provide the Director with any written comments concerning the draft general permit and/or request a public hearing in writing. Such 30 days period may be extended by the Director.

(E) If any information or public comment is received during the comment period which appears to raise substantial issues concerning the draft general permit, the Director may formulate a new draft general permit which supersedes the original draft general permit and may , if necessary republish the public notice.

(F) Following the close of the public comment period and any public hearing, the Director shall issue a general permit. The Director shall include in the general permit all requirements applicable to other Class I or Class II operating permits, if the source category includes Class I sources, and all other requirements applicable to Class II permits, if the source category includes Class II sources.

(G) Sources that qualify for a general permit must apply to the Department for coverage under the terms for the general permit by submitting an application in accordance with Section 7 of these Regulations and Standards that includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

(H) The Director shall notify a source of the final determination that the source qualifies and is covered under the general permit. If the Director denies coverage of the source under the general permit, the source may request an adjudicative hearing in accordance with the procedures established by the Lincoln City Council and the Lancaster County Board of Commissioners.

(I) The Director may issue a general permit to an individual source without repeating the notice and comment procedures required under paragraphs (A) through (F) of this section. The Department shall maintain a list of all sources covered by general permits, which list shall be available for public review.

(J) A source that obtains a general permit shall be subject to enforcement action for operation without a Class I or Class II operating permit if the source is later determined not to qualify for the terms and conditions of the general permit.

(K) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under one or more general permits for the operations, activities, and emissions that are so eligible. If the source is required under Section 5 of these Regulations and Standards to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses those items not covered by general permits. In such a case, the permit applicant must identify all operations, activities, and emissions that are subject to general permits. The Class I or Class II operating permit shall identify any general permits which have been issued.

Ref: Title 129, Chapter 9, Nebraska Department of Environmental Quality

SECTION 10. OPERATING PERMITS FOR TEMPORARY SOURCES

(A) The Director may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the terms of the permit subject to Department approval. No affected source shall be permitted as a temporary source.

(B) Class I and Class II operating permits for temporary sources shall include the requirements in Section 8 of the these Regulations and Standards and the following:

(1) Conditions that will assure compliance with all applicable requirements and ambient air quality standards established in Section 4 of these Regulations and Standards at all authorized locations;

(2) Requirements that the owner or operator notify the Director at least 20 days in advance of each change in location by providing the following information:

(a) A specific description of the source, including SIC code,

(b) A legal description of the proposed new location.

(c) The anticipated dates of operation at the new proposed location,

(d) A description of site location, adjacent surroundings, including proximity to occupied buildings,

(e) A contact person for the source, and

(f) The signature of a responsible official certifying the information contained in the notification; and

(g) The source number as assigned by the Department.

(C) The Director may disapprove a new proposed location for a temporary source if such operation in the new location would cause or contribute to a violation of standards or otherwise adversely affect human health or the environment.

Ref: Title 129, Chapter 10, Nebraska Department of Environmental Quality

SECTION 11. EMERGENCY OPERATING PERMITS -- DEFENSE

(A) For the purpose of a Class I or Class II operating permit, an "emergency" means any situation arising from sudden, unavoidable, and reasonably unforeseeable events beyond the control if the source, including acts of God, which requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(B) An emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of paragraph (C) below are met.

(C) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
- (1) An emergency occurred and that the permittee can identify the cause(s) of the emergency;
- (2) The permittee facility was at the time being properly operated;]
- (3) During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and
- (4) The permittee submitted notice of the emergency to the Department within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(D) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(E) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Ref: Title 129, Chapter 11, Nebraska Department of Environmental Quality

SECTION 12. OPERATING PERMIT RENEWAL AND EXPIRATION

(A) Class I or Class II operating permits being renewed are subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance.

(B) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Section 7, paragraph (B) and (C) of these Regulations and Standards.

(C) The conditions of an expired permit shall continue until the effective date of a new permit, provided the permittee has complied with Section 8, subparagraph (C) (3) of these Regulations and Standards or until the application for a permit is denied. The Director shall deny the application for a permit if any of the following are true:

(1) The permittee is not in substantial compliance with the terms and conditions of the expired permit or with a stipulation, agreement, or compliance schedule designed to bring the permittee into compliance with the permit;

(2) The Department, as a result of an action or failure to act on the part of the permittee, has been unable to take final action on the application on or before the expiration date of the permit; or

(3) The permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of the deficiencies.

Ref: Title 129, Chapter 12, Nebraska Department of Environmental Quality

SECTION 13. CLASS I OPERATING PERMIT -- EPA REVIEW -- AFFECTED STATED REVIEW

(A) Unless the Administrator waives or modifies this requirement, the Department shall provide to the Administrator a copy of each Class I permit application or modification, each proposed Class I permit, and each final Class I permit. The department may require the permit applicant to provide a copy of the permit application, including the compliance plan, directly to the Administrator.

(B) The Department shall give notice of each draft Class I permit to any affected State on or before the time that the Department provides notice to the public. The Department shall notify the Administrator and any affected State in writing of the reasons for any refusal by the Department to accept all recommendations for the proposed permit that the affected State submitted.

(C) The Department shall not issue a Class I permit if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and any necessary supporting information.

(D) If the Administrator objects to a Class I permit as a result of a petition for review filed pursuant to Section 505 (b) (2) of the Clean Air Act, the Department shall not issue the permit until EPA's objection has been resolved, except that a petition for review shall not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45 days EPA review period and prior to an EPA objection.

(E) If the Department has issued a Class I permit to which EPA objects as a result of a petition for review filed pursuant to Section 505 (b) (2) of the Clean Air Act, the permit may be reopened in accordance with the procedures in Section 15, paragraph (F) of these Regulations and Standards.

(F) Prohibition on Default Issuance.
- (1) Notwithstanding the time period specified in Section 7, paragraph (I) of these Regulations and Standards, no Class I operating permit, including a permit renewal or revision, shall be issued until:
  - (a) Affected States and the Administrator have had an opportunity to review the proposed permit.
  - (b) The Director has acted on the application.
- (2) No Class II operating permit, including a permit renewal or revision, shall be issued until the Director has acted an the application.

Ref: Title 129, Chapter 13, Nebraska Department of Environmental Quality

SECTION 14. PERMITS - PUBLIC PARTICIPATION

(A) Scope. Except for modifications qualifying for minor permit modification procedures in Section 15 of these Regulations and Standards, all Class I and Class II operating permit proceedings, including initial permit issuance, significant modifications, and renewals, and unless otherwise provided, all construction permits, shall provide for public notice, an opportunity for comment, and a hearing, if requested, on the draft permit in accordance with the procedures of these Regulations and Standards.

(B) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located and by mail to EPA and persons on a mailing list developed by the Department, including those persons who request in writing to be on the mailing list; and by other means, if necessary, to assure adequate notice to the affected public.

(C) The notice shall contain the following:
- (1) The identity of the affected facility;
- (2) The name and address of the permittee;
- (3) The name, address, and telephone number of the Department;
- (4) The activity or activities involves in the permit action;
- (5) The emissions change involved in any permit modification;
- (6) The name, address, and telephone number of the person from whom interested person may obtain additional information;
- (7) Location where copies of the draft permit, the application, draft permit revision, and other materials deemed relevant by the Department to the permit decision, may be reviewed; and
- (8) A brief description of the comment procedures and the time and place of any hearing that may be held,. Including a statement of procedures to request a hearing, unless a hearing has already been scheduled.

(D) Persons or groups shall have 30 days for issuance of public notice to either provide the Director with any written comments concerning the proposed permit action for which the public notice has been issued and/or request a public hearing before the Air Pollution Control Advisory Board in writing in accordance with paragraph (E) below. Such 30 day comment period may be extended by the Director.

(E) Public Hearings
- (1) The applicant, any Affected State, any interstate agency, the Administrator, or any interested agency, person, or group, may request or petition the Director, in writing, within the 30 day comment period of the public notice, for a public hearing, and state the nature of the issues to be raised and all arguments and factual grounds supporting their position.
- (2) The Director may hold a public hearing if the comments, requests, or petitions raise legal, policy or discretionary questions of general application not pertaining solely to a particular party and significant public interest exists with respect to the application.

(F) Public notice of hearing. In addition to the public notice described in paragraph (C) above, the public notice of a hearing under paragraph (E) shall be published at least 30 days prior to the hearing in accordance with paragraph (B) and shall contain the following information:
- (1) Reference to the date of the previous notices relating to the permit;
- (2) Date, time, and place of hearing;
- (3) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and
- (4) A concise statement of the issues raised.

(G) Adjudicative Hearing
Any interested person may petition the Director for an adjudicative hearing in accordance with the procedures established by the Lincoln City Council and the Lancaster County Board of Commissioners.

(H) At the time that any final permit decision is issued, the Department shall issue a response to significant comments received during the comment period and public hearing. The response to comments shall be made available to the public.

(I) The Department shall make and keep a record of the commenters and of the issues raised during the public participation process. This record shall be made available to the Administrator in fulfillment of his or her obligation under Section 505 (b) (2) of the Act to determine whether a citizen petition may be granted. Such record shall also be available to the public.

Ref: Title 129, Chapter 14, Nebraska Department of Environmental Quality

SECTION 15. OPERATING PERMIT MODIFICATIONS - REOPENING FOR CAUSE

(A) Administrative permit amendments.
- (1) An "administrative permit amendment" is a permit revision that:
  - (a) Corrects typographical errors;
  - (b) Identifies a change in the name, address, or telephone number of any person identified in the permit, provided that the owner or operator of the source is not changed;
  - (c) Requires more frequent monitoring or reporting by the permittee; and
  - (d) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority.
- (2) A permittee may request the Director to make an administrative permit amendment in writing by specifying the section of the permit that is to be changed and the reason for the change.
- (3) The source may implement the changes addressed in the request immediately upon submittal of the request, subject to the Department's final action on the request under subparagraph (A) (4) below.
- (4) The Department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes into the permit without providing notice to the public, EPA, or Affected States.
- (5) For Class I permits only, the Department shall submit a copy of the revised permit to the Administrator of EPA.
- (6) If the Department determines that the permittee's request for an administrative permit amendment should be handled as a minor modification or other permit modification, the Department shall notify the permittee of this determination and proceed with such modification pursuant to the applicable procedures.
- (7) The permit shield described in Section 8, paragraph (N) of these Regulations and Standards shall not apply to administrative permit amendments.

(B) Permit modifications to the acid rain portion of a Class I permit shall be governed by Section 26 of these Regulations and Standards.

(C) Minor Permit Modifications.
- (1) The minor permit modification procedures of this section may be used only for those permit modifications that:
  - (a) Do not violate any applicable requirement or applicable requirement under the Act.
  - (b) Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;
  - (c) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or inclement analysis;
  - (d) Do not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement or applicable requirements under the Act to which the source would otherwise be subject. Such terms and conditions include:
    - (1) A federally enforceable emissions cap assumed to avoid classification as a modification which require a construction permit under Section 17; and
    - (2) An alternative emissions limit approved pursuant to Sections 27 or 28 of these Regulations and Standards;
  - (e) Are not modifications which:
    - (1) Require a construction permit under Section 17,
    - (2) Are defined as a modification under the General Provisions for the standards of performance for new stationary sources incorporated by references in Section 18; and
    - (3) Are defined as a modification subject to preconstruction review under Section 19.
    - (4) Are defined as a modification under the National Emissions Standard for Hazardous Air Pollutants incorporated by reference in Section 23.

(f) Are not required by the Director to be processed as a significant modification; and
(g) Involve the use of economic incentives, marketable permits, emissions trading, and other similar programs or procedures; provided that such minor permit modification procedures are explicitly allowed for in a applicable State Implementation Plan or in an applicable requirement or applicable requirement under the Act.

(2) A permittee may request a minor permit modification by filing the standard form for either a Class I or a Class II operating permit, as appropriate, and shall include the following:
(a) A description of the change, the emissions resulting from the change, and any new applicable requirements and or applicable requirements under the Act that will apply if the change occurs:
(b) The source's suggested draft permit language;
(c) Certification by the responsible official, in accordance with Section 7, paragraph (H) of these Regulations and Standards that the proposed modification meets the criteria in subparagraph (C) (1) above for use of minor modification procedures and a request that such procedures be used;
(d) For a Class I minor permit modification only, two extra copies of completed forms identified in subparagraph (C) (2) (a) through (C) (2) (c) above for the Department to use to notify the Administrator and Affected States.

(3) For Class I operating permit modifications only, within 5 working days of receipt of a complete permit modification application, the Department shall notify the Administrator and Affected States of the requested permit modification.
(a) Affected States shall have 30 days to review and provide comments on the requested permit modification. The Department shall provide notice to the Administrator and any Affected State in writing of any refusal by the Department to accept all recommendations that the Affected State has submitted.
(b) EPA shall have 45 days to review and comment on the requested permit modification. The Department shall not issue a final permit modification until after EPA's 45 day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first.

(4) Within 90 days of the Department's receipt of an application under the minor permit modification procedures or 15 days after the end of EPA's 45 day review period, whichever is later, the Department shall:
(a) Issue the permit modification as proposed;
(b) Deny the permit modification application;
(c) Determine that the requested modification does not meet the minor permit modification criteria in subparagraph (C) (1) above and should be reviewed under the significant modification procedures; or
(d) Revise the draft permit modification and for Class I modifications only, transmit the new proposed permit to EPA for review as required in subparagraph (C) (3) (b) above.

(5) A source submitting a minor permit modification request may make the change proposed immediately after it files the application unless notified by the Department that the request does not qualify as a minor permit modification. After the source makes the change, and until the Department takes action under subparagraph (C) (4) (a) through (C) (4) (c) above, the source must comply with both the applicable requirements governing the change, applicable requirements under the Act, and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to modify may be enforced and such failure to comply shall be cause for denial of the minor permit modification request.

(6) The permit shield described in section 8, paragraph (L) of these Regulations and Standards, shall not apply to a minor permit modification.

(D) Group processing of minor permit modifications.
  (1) The Director, at his or her discretion, may modify the minor permit modification procedures in paragraph (C) above to process groups of a source's applications for certain modifications eligible for minor permit modification procedures.
  (2) Group processing of modifications may only be used for those permits modifications:
    (a) That meet the criteria for minor permit modification procedures under paragraph (C) above; and
    (b) That collectively are below the following threshold level: 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source for purpose of Class I permitting, or 5 tons per year, whichever is less.
  (3) A permittee may request the use of group processing procedures in this section by filing the standard application form for a Class I or Class II operating permit, as appropriate, and shall include the following:
    (a) A description of the change, the emissions resulting from the change, any applicable requirements or applicable requirements under the Act that will apply if the change occurs;
    (b) The source's requested draft permit language;
    (c) Certification by a responsible official, in accordance with Section 7, paragraph (H) of these Regulations and Standards, that the proposed modification meets the criteria for use of groups processing procedures and a request that such procedures be used;
    (d) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subparagraph (D) (2) (b) above;
    (e) For Class I modifications only, two extra copies of completed forms for the Department to use to notify the Administrator and Affected States.
      (1) Within 5 working days of receipt of an application for the group processing of a source's minor permit modification requests, the Department shall notify the Administrator and Affected States of the request for group processing.
      (2) Affected States shall have 30 days to review and comment on the request. The Department shall notify EPA and any Affected State in writing of any refusal by the Department to accept all recommendations for the proposed permit modification that the Affected State has submitted.
      (3) EPA shall have 45 days to review and comment on request for group processing of minor permit modifications. The Department shall not issue a final permit modification until after EPA's 45 day review period or until EPA has notified the permitting authority that EPA will not object to issuance of the permit modification, whichever is first.
      (4) Within 180 days of receipt of the application for group processing of minor permit modifications or 15 days after the end of the EPA's 45 day review period, the Director shall:
        (a) Issue the permit modification as proposed;
        (b) Deny the permit modification application;
        (c) Determine that the requested modification does not meet the criteria for group processing in subparagraph (D) (2) of this section and should be reviewed under the significant modification procedures; or
        (d) Revise the draft permit modification and, for Class I permit modifications only, transmit to the Administrator the new proposed permit modification as required by subparagraph (D) (3) (e) (3) above.

(5) A source submitting a request for a group processing of minor permit modifications may make the change proposed immediately after it files the application unless notices by the Department that the request did not qualify as a minor permit modification. After the source makes the change, and until the Department takes action under subparagraph)D) (4) (a) through (D) (4) (c) above, the source must comply with applicable requirements governing the change, applicable requirements under the Act and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to modify may be enforced and such failure to comply shall cause for denial of the minor permit modification request.

(6) The permit shield described in Section 8, paragraph (N) shall not apply to group-processed minor permit modifications.

(E) Significant modifications.

(1) A "significant modification" is any revision or change to a permit that cannot be accomplished as an administrative permit amendment or as a minor permit modification. Any relaxation in existing monitoring, reporting, or record keeping shall be considered significant.

(2) A permittee may request a significant modification by complying with the application procedures for permit issuance in Section 7, paragraph (F) of these Regulations and Standards.

(3) The Department shall review an application for a significant modification following the applicable procedures for permit issuance, including public participation, EPA and Affected States review.

(4) The permit shield described in Section 8, paragraph (L) of these Regulations and Standards, shall apply to a significant modification only after the Director approves the modification, provided that the permit contains a permit shield.

(F) Reopening for cause; revocation and reissuance; and termination.

(1) Any Class I or Class II operating permit issued by the Director shall be reopened, revoked and reissued or terminated, during its term for cause, including but not limited to:

(a) Additional applicable requirements under the Act or these Regulations and Standards become applicable to a Class I or Class II permitting source with a remaining permit term of 3 or more years. Such reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later that the date on which the permit is due to expire, unless the original permit or any if its terms and conditions had been extended.

(b) Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program under Title IV of the Act.

(c) The Director, or Administrator for a Class I permit only, determines that the permit must be revoked and reissued to assure compliance with the applicable requirements.

(d) The Director, or the Administrator for a Class I permit only, determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms and conditions of the permit.

(e) The Director, or the Administrator for a Class I permit only, determines that an applicable requirement or applicable requirement under the Act applies which was not identified by the permittee in its application.

(2) A Class I or Class II operating permit may be revoked during its term for cause, including but not limited to:

(a) The existence at the facility of unresolved noncompliance with applicable requirements or a term or condition of the permit, and refusal of the permittee to agree to an enforceable schedule of compliance to resolve the noncompliance;

(b) The permittee has falsely certified or submitted false, incomplete, or misleading information to the Department or EPA;

(c) The Director determines that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by a modification of the permit; or

(d) The permittee has failed to pay a penalty owed pursuant to court order, stipulation and agreement, or order issued by the Administrator.

(3) The Department shall initiate a reopening or revocation under paragraph (F) (1) or (F) (2) above by providing a notice of intent to the permittee and publishing notice of such intent following the procedures applicable to permit issuance including public participation, and EPA and Affected State review for Class I permits only. Proceedings to reopen a permit shall affect only those parts of the permit for which cause to reopen exists. The Department shall provide a minimum 30 day public comment period unless the Director determines that an emergency exists which necessitates a shorter time period.

(4) If the Department receives a notification from the Administrator that a Class I operating permit should be reopened for cause pursuant to this section, the Department shall, within 90 days for receipt of such notification, or revocation and reissuance, as appropriate.

(5) If the Administrator does not object to the Department's determination under subparagraph (F) (4) above within 90 days, the Department shall proceed as indicated.

(6) If the Administrator objects to the Department's determination under subparagraph (F) (4) above within 90 days, the Department shall have an additional 90 days from receipt of EPA's objection during which the Department may take action to terminate, modify, or revoke and reissue the permit in accordance with the EPA's objection.

(7) If the Department fails to take action as stated in any EPA objection under subparagraph (F) (6) of this section, the permit may be subject to action by the Administrator.

(G) For Class I permits only, a permittee may make the following changes within a permitted facility without a permit revision, if the change is not a modification which would require a construction permit under Section 17, Section 18, Section 19, Section 23, Section 27, and Section 28 of these Regulations and Standards, and the change does not result in the emissions allowable under the permit being exceeded, provided that the permittee provides the Director with written notification as required below a minimum of 30 days in advance of the proposed changes, unless the Director determines a shorter time is necessary for emergency reasons. The permittee shall attach a copy of the notice to its copy of the Class I operating permit. The permit shield described in Section 8 paragraph (N) shall not apply to any change made under this section.

(1) Section 502 (b) (10) changes, as defined in Section 1, provided that the written notification required above shall include:
   (a) A brief description of the change within the permitted facility;
   (b) The date on which the change will occur;
   (c) Any changes in emissions; and
   (d) Any permit term or condition that is no longer applicable as a result of the change.

(2) Trading of increases and decreases in emissions in the permitted facility, where the applicable implementation plan provides for such emissions trades without requiring a permit revision; provided that the written notification required above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum:
   (a) The date the proposed change will occur;
   (b) A description of each such change;
   (c) Any change of emissions;
   (d) The regulatory provisions and permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan; and
   (e) The pollutants emitted subject to the emissions trade.

(3) Trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that has been established pursuant to Section 8, paragraph (S); provided, that the written notification required above shall include:
   (a) The date the change will occur,
   (b) A description of the changes in emission that will result, and
   (c) How these increases and decreases in emissions will comply with the terms and conditions of the permit.

(H) No permit revisions shall be required under any State-approved programs providing for economic incentives, marketable permits, emissions trading or other similar programs or processed for changes that are provided for in the permit.

Ref: Title 129, Chapter 15, Nebraska Department of Environmental Quality

SECTION 16. STACK HEIGHT -- GOOD ENGINEERING PRACTICE (GEP)

(A) The degree of emissions limitation required of any source for control of any air pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in paragraph (B) below.

(B) The provisions of paragraph (A) shall not apply to:
   (1) Stack heights in existence, or dispersion techniques implemented prior to December 31, 1970, except where pollutants are being emitted from such stacks or using dispersion techniques by sources which were constructed or reconstructed, or for which major modifications were carried out after December 31, 1970; or
   (2) Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

(C) No emission limitation will be established, or permit to construct or modify issued, involving any dispersion technique, unless approved by the Lincoln City Council or Lancaster County Board of Commissioners (depending on jurisdiction) following public hearing notice at least 30 days in advance. The public notice will announce the availability of any fluid model or field study demonstration.

Ref: Title 129, Chapter 16, Nebraska Department of Environmental Quality

SECTION 17. CONSTRUCTION PERMITS -- WHEN REQUIRED

(A) No person shall cause the construction, reconstruction, or modification at any of the following without first having obtained a construction permit from the Department in the manner prescribed by these Regulations and Standards:

(1) Any air contaminant source or emission unit, such that there is a net increase in potential emissions equal to or exceeding the following levels (except a provided in (A)(3):

(a) For any source which is major for purposes of prevention of significant deterioration, any increase in particulate matter emissions which would subject such source to review or, except for enforceable limits established through the construction permit issued pursuant to this Section would subject such source to review under the provisions of 40 CFR Part 52, as adopted in Section 19.

(b) Fifteen (15) tons/year of PM10 emissions.

(c) Forty (40) tons/year of SO2 or SO3, or any combination of the two.

(d) Forty (40) tons/year of oxides of nitrogen (calculated as NO2)

(e) Forty (40) tons/year of volatile organic compounds (VOC).

(f) Fifty (50) tons/year of carbon monoxide.

(g) Six tenths (0.6) tons/year of lead.

(h) Two and one-half (2.5) tons/year of any hazardous air pollutant or an aggregate of ten (10) tons/year of any hazardous air pollutants, including all associated fugitive emissions.

When determining the net change in potential emissions under (A)(1) above, fugitive emissions shall be addressed in accordance with the requirements of Article 2 Section 2(A)(1) and Section 2(B) without regard to classification of the source as major or minor.

(2) Any incinerator used for refuse disposal or for processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units used only for the disposal of residential waste generated on the residential premises where the incinerator is located.

(3) When a source replaces an existing emission unit with a new unit, that performs the same function as that of the unit being replaced, netting shall not be used to determine the need for a permit under this section, except as follows: (a) The procedure for determining a net increase in potential emissions will be allowed for sources where the equipment replacement would be subject to the requirements of Article 2, Section 19 of these Regulations and Standards; and (b) In cases where the source can demonstrate to the Department that netting will result in a net reduction in emissions of individual criteria and toxic air pollutants and total toxic air pollutants, where applicable. In this case, the source may also use actual emissions decreases from emission units that are dissimilar in function to the unit(s) being replaced in order to make this demonstration, provided the actual emissions decreases are concurrent with the planned replacement. However, any emissions increases that occur at this time with respect to these emission units must also be included in this demonstration. The result of the netting calculation must be a difference of less than zero tons per year of emission. This demonstration is not applicable to emission units that are subject to the requirements of Article 2, Section 27(C).

If the exceptions of (a) or (b) are not applicable, the potential emissions of regulated air pollutants associated with the new (replacement) unit alone shall be used to determine the need for a permit, i.e., no reduction in emissions from the new unit shall be allowed because of the elimination of actual emissions from the existing emission unit which is being replaced and those associated with other emission units at the facility. A new unit shall not mean an existing emission unit which is being relocated from another site.

(B) The standards which would have been imposed under a construction permit are applicable to those sources who have failed to obtain a permit to the same extent as if a permit had been obtained.

(1) The permittee must comply with all conditions of the construction permit. Any permit noncompliance shall constitute a violation of these Regulations and Standards and the Act and is grounds for enforcement action or permit revocation.

(C) The owner or operator of any source required to obtain a construction permit under these Regulations and Standards shall submit an application on forms provided by the Department.

(D) An application will be deemed complete if it provides all the information required and is sufficient to evaluate the subject source and to determine all applicable requirements. The application shall be certified by a responsible official for the source.

(E) If the Department determines that the application is not complete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response.

(F) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or correct information.

(G) The Department shall require in the application information necessary to determine if the new or modified source will interfere directly or indirectly with the attainment or maintenance of National Primary and Secondary Ambient Air Quality Standards, or violate any portion of an existing control strategy.

(H) If an air quality impact analysis is deemed necessary by the Director as a part of a construction permit application, concentrations of pollutants that may be expected to occur in the vicinity of a source or combination of sources will be determined by use of an air pollution dispersion model acceptable to the Director. Meteorological and operating conditions that may occur that will produce the greatest concentrations of the pollutants emitted shall be used in evaluating the effect of the source(s) on air quality.

(I) Disapproval of Application for Permits.

(1) If it is determined by the Director that emissions resulting from the operation of a source to be constructed or modified will violate the "Standards of Performance for New Stationary Sources", violate any portion of these rules and regulations, or interfere with attainment or maintenance of a National Ambient Air Quality Standard, no permit will be granted until necessary changes are made in the plans and specifications to obviate the objections to issuance.

(2) A construction permit will not be issued for any major source or major modification when such source or modification would cause or contribute to violation of a national ambient air quality standard by exceeding, at a minimum, the following significant levels at any locality that does not or would not meet the applicable national standard:

	Annual	Averaging Time 24 hrs	Averaging Time 8 hrs	Averaging Time Time 3 hrs	Averaging Time 1 hr
Pollutants					
SO_2	1.0 ug/m^3	5.0 ug/m^3	----------	25 ug/m^3	----------
PM_{10}	1.0 ug/m^3	5.0 ug/m^3	----------	----------	----------
NO_2	1.0 ug/m^3	----------	----------	----------	----------
CO	----------	----------	0.5 mg/m^3	----------	2 mg/m^3

(J) Issuance of permits. The Director shall publish notice of intent to approve or disapprove the application in accordance with procedures in Section 14 of these Regulations and Standards.

(K) Approval, by issuance of a permit for any construction, reconstruction, or modification, does not relieve the owner or operator from his or her responsibility to comply with the applicable portions of the Implementation Plan control strategy.

(L) If construction, reconstruction, or modification of the source is not commenced within 18 months, the construction permit shall lapse except upon showing by the permittee that the complexity of the construction, reconstruction, or modification requires additional time.

(M) Additional Requirements for Construction or Modification of Sources in non-attainment Areas.

(1) No permit to construct or modify will be issued for a proposed major source of a major modification if the source is located or is to be located in an area that is non-attainment for a pollutant for which the source or modification is major unless it determined that;

(a) By the time the facility is to commence operation, total Allowable emissions from the same source or existing sources in the same non-attainment area, from new sources which are not major emitting facilities, and from existing sources allowed under the Implementation Plan prior to the application for such permit to construct or modify represent a net decrease in emissions and show reasonable further progress toward attainment and maintenance of the ambient air quality standards, and provided that any emission reductions required as a precondition of the issuance of a permit shall be federally enforceable before such permit is issued.

(b) The proposed source is required to comply with the lowest achievable emission rate; and

(c) The owner or operator of the proposed new or modified source has demonstrated that all other major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State subject to emissions limitations are in compliance, with all applicable emission limitations and standards.

(d) The proposed source is in compliance with requirements established under the Implementation plan and the Director shall not issue a permit if the Administrator has determined that the applicable Implementation plan is not adequately implemented for the non-attainment area in which the proposed source is to be constructed or modified.

(e) The source has completed an analysis of alternative sites, sizes, production processes, and environmental and social costs imposed as a result of its location, construction, or modification.

(2) The requirements of subparagraph (M) (1) (a) above for emission reductions from existing sources in the vicinity of proposed new sources or modifications shall be determined on a case-by-case basis. The offset baseline shall be the actual emissions of the source from which offset credit is obtained.

(3) The following shall apply to emission offsets:

(a) If the emissions limit under these Regulations and Standards allow a greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

(b) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable State Implementation Plan for the type of fuel burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date,
emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The Director will ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

(c) Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the work force to be affected had been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emissions offset credit. However, where an applicant can establish that it shutdown or curtailed production less than one year prior to the date of permit application, and the proposed new source is a replacement for the shutdown or curtailment may be applied to offset emissions for the new source;

(d) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds." (42 FR 35314, July 8, 1977);
(e) The procedures set out in 40 CFR Part 51, Appendix S, Section IV(D), relating to the permissible location of offsetting emissions, shall be followed, unless the Director determines that an equally stringent or more stringent procedure is appropriate.
(f) Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51 Subpart I or in demonstrating attainment or reasonable further progress.
(g) Emissions reductions otherwise required by the Act or these Regulations and Standards shall not be creditable as emission reductions for purposes of any offset.

(4) The provisions of subparagraph (M) above do not apply to a source or modification that would be a major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:
(a) Coal cleaning plants (with thermal dryers);
(b) Kraft pulp mills;
(c) Portland cement plants;
(d) Primary zinc smelters;
(e) Iron and steel mills;
(f) Primary aluminum ore reduction plants;
(g) Primary copper smelters;
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(i) Hydrofluoric, sulfuric, or nitric acid plants;
(j) Petroleum refineries;
(k) Line plants;
(l) Phosphate rock processing plant;
(m) Coke oven batteries;
(n) Sulfur recovery plants;
(o) Carbon black plants (furnace process);
(p) Primary lead smelters;
(q) Fuel conversion plants;
(r) Sintering plants;
(s) Secondary metal production plants;
(t) Chemical process plants;
(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hours heat input;
(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(w) Taconite ore processing plants;
(x) Glass fiber processing plants;
(y) Charcoal production plants;
(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
(aa) Any other stationary source category which is being regulated by a standard promulgated under Sections 111 or 112 of the Act as of August 7, 1980.

(5) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(N) Modification of the Construction Permit. The purpose of this section is to provide a means to address unforeseen situations which may develop in the process of constructing or modifying an emission source subject to this Section.

(1) Subject to the approval of the Director, the terms of a construction permit may be modified without public review through the substitution of alternative provisions, provided the following conditions are met:

(a) No emission limit in the original construction permit is exceeded;

(b) No applicable requirement included in an operating permit to which the source is subject is violated;

(c) No emissions limit, equipment or operational standard applicable to the source will be exceeded;

(d) No emissions limit, equipment or operational standard assumed to avoid a classification that would render the source subject to an otherwise applicable requirement will be exceeded; and

(e) The nature of the constructed facility will be consistent with that described in the original public notice materials.

(2) Modifications meeting the conditions of (1) above shall be processed as follows:

(a) The owner or operator shall submit an application for modification of a construction permit as provided in (C) above and provide such additional information as may be required to determine if the conditions of (1) above have been met;

(b) The Department shall review the application and determine whether or not a modification of the construction permit is required. The applicant shall not proceed with the project until a determination is made by the Director.

(3) Proposed modifications to a construction permit which do not meet the conditions of (1) above must be processed through the full construction permit process as provided in (C) through (M) above.

(O) Construction Permit Exemption for Commercial, Industrial, and Institutional Emergency Generators. This subsection shall apply to the following emergency generators where the total emergency generator capacity at a commercial, industrial, or institutional facility is or will be equal to or greater than 200 KW for fuel oil and/or natural gas-fired units, or 19 KW where one or more of these generators is fueled with gasoline: (a) Existing stationary units that were installed on or after 11-15-93; (b) New stationary units that are installed after the effective date of this regulation; (c) Existing portable units that are currently being operated in Lancaster County and existing portable units that are sited in Lancaster County after the effective date of this regulation; and (d) New portable units that will be operated in Lancaster County after the effective date of this regulation.

(1) To qualify for the exemption, owners/operators of these units shall comply with the following requirements:

(a) For existing units, provide records, to the extent available, that demonstrate the units for which exemptions are sought have never been operated more than 500 hours during any calendar year. For new units, stipulate that annual operating hours will not exceed 500 and that records of annual operating hours will be maintained.

(b) Record operating hours for both test and emergency conditions.

(c) The sulfur content of any fuel oil combusted in these units shall not exceed 0.5% by weight.

(2) To obtain the exemption, owners/operators of existing stationary emergency generators that qualify shall submit their requests to the Department and provide the following information for each unit:

(a) The make and model number.

(b) The horsepower rating.

(c) The type of fuel (natural gas, fuel oil, gasoline) combusted.

(d) If fuel oil is combusted, indicate the grade, such as No. 2, and the sulfur content (% by weight). Provide a statement of certification from the fuel supplier confirming the grade and sulfur content of the fuel oil delivered and a letter from the owner/operator certifying that this is the only type of fuel oil being combusted.

(e) The greatest number of hours the unit has been operated in any calendar year since the date of installation and the quantity of fuel that was combusted during that period, to the extent this information is available.

The deadline for submittal of the request for exemption and payment of the exemption request fee established in Section 17 (O)(6) shall be no later than 180 days after the effective date of this regulation. After this period, an owner/operator shall be required to submit a construction permit application and obtain a permit. Within 18 months of issuance of a construction permit, the Department may require an owner/operator to submit an application for an operating permit in accordance with the requirements of Article 2, Section 5 of these Regulations and Standards.

(3) To obtain the exemption, owners/operators of qualifying new and existing portable emergency generators, or new stationary emergency generators, shall submit their requests to the Department and provide the following information:

(a) All of the information required in Section 17(O)(2)(a) through (e)

(b) An estimate of the anticipated annual hours of unit operation at the commercial, industrial, or institutional facility. The estimate shall include both test and emergency operating conditions.

(c) The estimated quantity of fuel that will be combusted annually.

(d) A site plan showing the proposed location of the unit and the location of any adjacent habitable structures, such as businesses, schools, and residences. The height of the unit's exhaust stack and the elevations of surrounding habitable structures shall also be indicated. Approval of the unit's location by the Department is required before an exemption will be granted.

After the effective date of this regulation, the deadline for submittal of the request for exemption and payment of the exemption request fee for new and existing portable units (not currently operating in Lancaster County) shall be no later than 20 days prior to their relocation to and operation in Lancaster County, 60 days after the effective date of this regulation for existing portable units currently operating in Lancaster County, and 60 days prior to the installation of any new stationary units. An exemption for a portable unit shall not be required in cases where the unit is relocated to Lancaster County for the express purpose of addressing an immediate emergency condition, such as the result of a natural or man-made disaster, and the unit will not remain operational for a period greater than seven days (168 hours). If a portable unit will be operated more than seven days, the owner/operator shall be required to apply for the exemption within 24 hours after conclusion of the seventh day of operation in order to avoid the construction permit requirement. After these periods, the owner/operator will be required to submit a construction permit application and to obtain a permit. Within 18 months of issuance of the construction permit, the Department may require the owner/operator to submit an operating permit application and obtain an operating permit in accordance with the requirements of Article 2, Sections 5 or 10 of these Regulations and Standards.

(4) In the event the owner/operator of an emergency generator who holds an exemption no longer qualifies for the exemption according to the requirements of Section 17 (O)(1)(a) through (c), or the owner/operator chooses to operate the generator for other than emergency purposes, the owner/operator shall submit a construction permit application to the Department within 60 days of the finding or declaration and shall obtain a permit. Within 18 months of issuance of a construction permit, the Department may require the owner/operator to submit an application for an operating permit in accordance with the requirements of Article 2, Sections 5 or 10 of these Regulations and Standards.

(5) Owners/operators of emergency generators who operate these units in noncompliance with the requirements of Section 17(O)(2), (3), or (4) shall be deemed in violation of these requirements and shall be subject to the provisions of Article 1, Sections 3 and 4 of these Regulations and Standards. The owner/operator of an emergency generator whose hours of operation exceed 500 hours during the year shall report this event to the Department no later than 30 days after the month in which the 500 hours per year limit was exceeded.

(6) A processing fee for review of the construction permit exemption request shall be assessed according to the following schedule:

(a) For those emergency generators addressed in Section 17(O)(2), exemption requests received by the Department within 90 days of the effective date of this regulation will be assessed a fee of $25.00 for up to three units owned by the source and operated in Lancaster County. For more than three units, a fee of $75.00 will be assessed. Exemption requests received between 91 days and 180 days after the effective date of this regulation will be assessed a fee of $100.00 for up to three units and a fee of $200.00 for more than three units.

(b) For those emergency generators addressed in Section 17(O)(3), exemption requests will be assessed a fee of $35.00 for up to three portable units owned and/or operated by a source in Lancaster County. For more than three units, a fee of $85.00 will be assessed. The exemption request fee for a new stationary emergency generator that will be operated in Lancaster County is $35.00.

(7) The Department will provide a letter of exemption to the owner/operator of an emergency generator who has requested the exemption, has provided the information required in Section 17(O)(2) and/or Section 17(O)(3), the Department has determined the unit qualifies for the exemption according to Section 17(O)(1)(a) through (c), and has submitted the applicable exemption request fee. The exemption shall remain in effect for each unit that continues to qualify. In the event the Department determines that an exemption can not be granted, a letter explaining the reason(s) for refusal will be sent to the owner/operator. The owner/operator who is denied an exemption may provide additional information to support their request. If the Department, after review of this additional information, continues to deny the exemption, the owner/operator may appeal the decision to the Director according to the procedures established in Article 1, Section 4 of these Regulations and Standards.

(P) Construction Permit Requirements for Commercial, Industrial, and Institutional Nonemergency Generators. This subsection shall apply to any existing stationary electric power producing generators operated at commercial, industrial or institutional facilities where the owner/operator participates in a program established by the local utility in which the utility may request that the owner/operator use these generators to produce a limited number of hours of electric power during periods when power from the local utility is available. An owner/operator who participates in this program must obtain a construction permit from the Department that applies to all generators at the facility that may be used for this nonemergency purpose. The owner/operator may utilize these generators for emergency purposes but they will be designated as nonemergency generators for purposes of this subsection.

(1) To qualify for and to obtain this permit, an owner/operator shall comply with the following requirements and provide the following information:

(a) Each generator that may be used for nonemergency purposes must be specifically identified. A distinction must be maintained between those generators that may be used to generate power for nonemergency purposes and those units that will be used solely as emergency generators.

(b) The number of hours the unit may be operated for nonemergency purposes shall be limited to no more than 200 hours per calendar year, and for emergency purposes, including testing, the unit's operation shall be limited to no more than 300 hours per calendar year. Regardless of the 200 hour limit allowed each unit for nonemergency operation, the emission limit established in subparagraph (g) of this subsection shall not be exceeded.

(c) A record of unit operating hours for emergency and testing purposes and for nonemergency purposes shall be maintained on a monthly basis. These records shall be made available to authorized representatives of the Department upon request. The owner/operator shall report to the Department any exceedences of the 200 hour per year and/or 300 hour per year limit that are applicable to a generator operating under the requirements of this subsection. The report of exceedences shall be submitted no later than 30 days after the month in which the 200 hour per year and/or 300 hour per year limit is exceeded.

(d) A record of the quantity of fuel (natural gas, No. 2 fuel oil) combusted annually for emergency and testing purposes and for nonemergency purposes shall be maintained.

(e) An annual emissions inventory shall be submitted to the Department on forms provided by the Department by March 31st of each year for the previous calendar year. The inventory must include a separate accounting of the emissions resulting from nonemergency operation and those resulting from emergency, including testing, operation of each generator subject to the requirements of this subsection. This submittal shall also include the records required in subparagraph (c) (operating hours) and (d) (quantities of fuel) above.

(f) The sulfur content of fuel oil combusted shall not exceed 0.5% by weight. The owner/operator shall provide a statement of certification from the fuel supplier confirming that the fuel oil delivered does not exceed this limit, and the owner/operator shall also certify that oil with this sulfur limit is the only type of fuel oil being combusted.

(g) Total criteria and noncriteria emissions from all of these units at a facility during nonemergency operation shall be less than ten (10) tons during a calendar year. The emission factors used to calculate these emissions shall be those provided in AP-42, by the generator manufacturer, or by other sources of information acceptable to the Department.

(h) Within 30 days of the date the Department issues the construction permit, the owner/operator shall submit a construction permit fee in the amount of $50.00.

(i) Annually, the permittee shall pay emission fees to the Department according to the following schedule:

(1) $500.00 for total actual emissions between 1 and 9.99 tons per year during nonemergency operation of the generator; or

(2) $100.00 for total actual emissions of less than 1 ton per year during nonemergency operation of the generator.

No annual fees shall be assessed for those emissions that occur during use for emergency and testing purposes. For sources operating under Class I or Class II operating permits that have been issued this construction permit, this fee schedule shall not apply. Those sources shall be assessed fees that include nonemergency use emissions in accordance with the schedule established in Article 1, Section 6 of these Regulations and Standards.

(j) The owner/operator shall provide the following information for each nonemergency generator in the construction permit application submitted to the Department:

(1) The make and model number of the generator;

(2) The KW and horsepower ratings;

(3) The type of fuel(s) combusted;

(4) If fuel oil is combusted, indicate the grade, such as No. 2, and the sulfur content (% by weight); and

(5) A site plan showing the location of the stationary nonemergency generator(s) and the location of any adjacent habitable structures, such as businesses, schools, and residences. The height of each unit's exhaust stack and the elevations of surrounding habitable structures shall also be indicated. Depending on the level of concern raised by evaluation of the site plan, the Department may request that an ambient air quality impact analysis be performed.

(2) The owner/operator who has been issued a construction permit for a stationary nonemergency generator(s) that will be operated in accordance with the requirements of this subsection is not required to obtain an operating permit for the unit provided that emissions from the unit in combination with those of other emissions units at the facility do not make the facility subject to the requirements of Article 2, Section 5 of these Regulations and Standards. The emissions from emergency generators operated in conjunction with nonemergency generators at a facility must also be included in determining the need for an operating permit. A nonemergency generator shall not be considered an insignificant activity and it must be included as an emission unit in the operating permit for facilities required to have this permit.

(3) Construction permits issued under this subsection to owners/operators of facilities that are not required to have operating permits shall not be subject to the public participation provisions of Section 14 of these Regulations and Standards. Issuance of construction permits to sources required to have Class I or Class II operating permits are considered significant operating permit modifications according to Section 15 (E)(1). A construction permit issued to a Class I source is subject to both Sections 13 and 14 because it is a significant modification pursuant to Section 15(E)(3) of these Regulations and Standards. A construction permit issued to a Class II source is subject only to the public participation requirements of Section 14.

(Q) Construction Permit Requirements for Commercial, Industrial, and Institutional Electrical Generators Used for Purposes Other Than Those Pertaining to Subsections (O) and (P) of this Section. These generators, powered by fuel oil, natural gas, or gasoline, shall be required to obtain a construction permit if the provisions of Subsection (A) of this Section apply. Additionally, these units may be subject to any or all of the operating permit requirements of Article 2, Sections 5, 9, and 10 of these Regulations and Standards.

Ref: Title 129, Chapter 17, Nebraska Department of Environmental Quality

SECTION 18. NEW SOURCE PERFORMANCE STANDARDS AND EMISSION LIMITS FOR EXISTING SOURCES

(A) Standards of Performance for New Stationary Sources.
Not withstanding any other provisions of these regulation, the following "Standards of Performance for New Stationary Sources" published at 40 CFR part 60, effective July 1, 2002, unless otherwise indicated are hereby adopted by reference and incorporated herein:

(1) General Provisions - Subpart A
(2) Ammonium sulfate manufacture - Subpart PP
(3) Asphalt processing and asphalt roofing manufacture - Subpart UU
(4) Automobile and light duty truck surface coating operations - Subpart MM
(5) Beverage can surface coating industry - Subpart WW
(6) Bulk gasoline terminals - Subpart XX
(7) Calciners and Dryers in Mineral Industries - Subpart UUU (57 Federal Register 44496, September 28,1992)
(8) Coal preparation plants - Subpart Y
(9) Commercial and industrial solid waste incineration units - Subpart CCCC
(10) Electric arc furnaces and argon-oxygen decarbonization vessels constructed after August 17, 1983 - Subpart AAa
(11) Electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983 - Subpart AA
(12) Electric Utility Steam Generator Units for which construction was commenced after September 18, 1978 - Subpart Da
(13) Equipment leaks of VOC from onshore natural gas processing plants - Subpart KKK
(14) Equipment leaks of VOC in petroleum refineries - Subpart GGG
(15) Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry - Subpart VV
(16) Ferroalloy production facilities - Subpart Z
(17) Flexible vinyl and urethane coating and printing - Subpart FFF
(18) Fossil-Fuel-Fired Steam Generators for which construction is commenced after August 17, 1971 - Subpart D
(19) Glass manufacturing plants - Subpart CC
(20) Grain elevators - Subpart DD
(21) Graphic arts industry: publication rotogravure printing - Subpart QQ
(22) Hospital/medical/infectious waste incinerators - Subpart Ec
(23) Hot Mix Asphalt facilities (Asphalt concrete plants) - Subpart I
(24) Industries-Commercial Institutional Steam Generating Units - Subpart Db
(25) Industrial surface coating: large appliances - Subpart SS
(26) Industrial surface coating: plastic parts for business machines - Subpart TTT
(27) Lead-acid battery manufacturing plants - Subpart KK
(28) Lime manufacturing plants - Subpart HH
(29) Magnetic tape coating facilities - Subpart SSS
(30) Metal coil surface coating - Subpart TT
(31) Metallic mineral processing plants - Subpart LL
(32) Municipal incinerators - Subpart E
(33) Municipal Solid Waste Landfill - Subparts Cc &WWW
(34) Municipal Waste Combustor - Subpart Ea & Eb
(35) Municipal waste combustor - Subpart Eb
(36) Municipal waste combustion unit (small) - Subpart AAAA
(37) New Residential Wood Heater - Subpart AAA
(38) Nitric Acid Plants - Subpart G
(39) Nonmetallic mineral processing plants - Subpart OOO
(40) Onshore natural gas processing; SO_2 emissions - Subpart LLL
(41) Petroleum dry cleaners - Subpart JJJ
(42) Petroleum refineries - Subpart J

(43) Phosphate fertilizer plants - Subpart T through X
(44) Phosphate rock plants - Subpart NN
(45) Polymeric coating of supporting substrates facilities - Subpart VVV
(46) Portland cement plants -Subpart F
(47) Pressure sensitive tape and label surface coating operations - Subpart RR
(48) Primary aluminum reduction plants - Subpart S
(49) Primary Copper smelters - Subpart P
(50) Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973 - Subpart N
(51) Primary lead smelters - Subpart R
(52) Primary zinc smelters - Subpart Q
(53) Rubber Tire Manufacturing Industry - Subpart BBB
(54) Secondary Brass and Bronze Production Plants - Subpart M
(55) Secondary emissions from basic oxygen process steel making facilities for which construction commenced from after January 20, 1983 - Subpart Na
(56) Secondary lead smelters- Subpart L
(57) Sewage Treatment Plants - Subpart O
(58) Small industries-commercial - institutional steam generation units - Subpart Dc
(59) Stationary gas turbines - Subpart GG
(60) Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and prior to May 19, 1978 - Subpart K
(61) Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and prior to July 232, 1984 - Subpart Ka
(62) Sulfuric Acid Plants - Subpart H
(63) Surface coating of metal furniture - Subpart EE
(64) Synthetic fiber production facilities - Subpart HHH
(65) Volatile Organic Compounds (VOC) emissions from petroleum refinery waste water systems - Subpart QQQ
(66) Volatile Organic Compounds (VOC) emissions from the polymer Manufacturing Industry - Subpart DDD
(67) Volatile Organic Compounds (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit process - Subpart III
(68) Volatile Organic Compounds (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) distillation operations - Subpart NNN
(69) Volatile Organic Compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) reactor processes - Subpart RRR
(70) Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984 - Subpart Kb
(71) Wool fiberglass insulation manufacturing plants constructed after February 7, 1984 - Subpart PPP
(72) Appendices A, B, C, and F.

(B) Except as provided in D below, standards of performance are applicable only to those new, modified, or reconstructed facilities specified or defined as an “affected facility”.

(C) Should the source need assistance in determining the CFR requirements the Department will provide the needed information on request.

(D) Emission Limits for Existing Stationary Sources. Not withstanding any other provisions of these Regulations and Standards, the following emission limits are applicable to existing sources as follows:
(1) Municipal solid waste (MSW) landfills. The designated facility to which these limits apply is each existing MSW landfill for which construction, reconstruction or modification was commenced before May 30, 1991, which has accepted waste at any time since November 8, 1987, or had additional capacity available for future waste deposition.

(a) Each designated facility shall submit an initial design capacity report 90 days after adoption of this section on forms provided by the Department. The final determination of design capacity shall subject to review and approval by the Department. Any changes in the physical boundaries, operation or waste deposition practices which increase or decrease the design capacity of the landfill shall require the submittal of an amended design capacity report.

(b) Each designated facility having an aggregate design capacity of 2.5 million megagrams or 2.5 million cubic meters or more shall calculate and report nonmethane organic compound (NMOC) emissions as provided for new MSW landfills under Section 18, (A)(33) beginning 90 days after adoption of this section.

(c) Each designated facility having an NMOC emission rate of 50 megagrams per year or more shall design, install and operate a landfill gas collection and control system (LGCCS) as provided for new MSW landfills under Section 18, (A)(33)

(d) Each designated facility subject to the control provisions of (D)(1)(c) above shall submit the LGCCS design for Department review within 1 year of the first report in which NMOC emissions equal or exceed 50 megagrams per year, and shall install the approved LGCCS within 30 months of that report, except as provided under Section 18(A)(33).

(e) Each designated facility subject to the control provisions of (D) (1) (c) above shall conduct testing, monitoring record keeping and reporting for the LGCCS as provided for new landfills under Section 18 (A)(33).

(2) Hospital/medical/infectious waste incinerators. The designated facility to which these limits apply is each individual hospital/medical/infectious waste incinerator for which construction, reconstruction or modification was commenced on or before June 20, 1996. The emission limits under this section apply at all times except during startup, shutdown or malfunction, provided that no hospital waste or medical/infectious waste is charged to the designated facility during startup, shutdown or malfunction. For purposes of this section, the definitions in 40 CFR Part 60, Subpart 60.31e, and the exceptions and exemptions from the definition of designated facility in 40 CFR Part 60, Subpart 60.32e(b) through (h), are adopted by reference and incorporated herein.

(a) Each designated facility subject to this section shall be operated pursuant to a Class I operating permit.

(b) For purposes of this section, the size classifications and emission limits provided in Tables 1 and 2 of 40 CFR Part 60, Subpart Ce are adopted by reference and incorporated herein. On or after the date on which the initial compliance test is required, no designated facility shall cause to be discharged into the atmosphere any gases that contain stack emissions in excess of the limits for its size, as provided in either Table 1 or 2, as applicable, or exhibit greater than 10 percent opacity, as evaluated by Method 9 in Appendix A of 40 CFR Part 60.

(c) Each designated facility subject to the provisions of this section shall comply with the requirements for operator training and qualification, waste management plans, and record keeping and reporting, except for requirements relating to siting and fugitive emissions, as provided for new sources under Section 18(A)(22).

(d) Each designated facility subject to the provisions of Table 1 as adopted in (D)2.b. shall comply with the requirements for compliance and performance testing and monitoring, except for fugitive emissions testing, as provided for new sources under Section 18(A)(22).

(e) Each designated facility subject to the provisions of Table 2 as adopted under (D)2.b. shall undergo an initial equipment inspection within 1 year of the effective date of this section, and subsequent equipment inspections no more than 12 months following each previous equipment inspection. For purposes of this paragraph, the inspection requirements in 40 CFR Part 60, Subpart 60.36e(a)(1) and (2) are adopted by reference.

(f) Each designated facility subject to the provisions of Table 2 as adopted under (D)2.b. shall comply with the following:

(1) Requirements for compliance and performance testing as provided in 40 CFR Part 63, Subpart 60.37e(b)(1) through (5)

(2) Requirements for monitoring as provided in 40 CFR Part 63, Subpart 60.37e(d)(1) through (3); and

(3) Requirements for reporting and record keeping as provided in 40 CFR Part 60, Subpart 60.38e(b)(1) and (2).

Ref: Title 129, Chapter 18, Nebraska Department of Environmental Quality

SECTION 19. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

(A) Not withstanding any other provisions of these Regulations and Standards, Section 52.21 of Title 40 Code of Federal Regulations (CFR) Part 52, July 1, 1997 edition pertaining to Prevention of Significant Deterioration of Air Quality, is hereby adopted and incorporated herein with exceptions as noted in paragraphs (B) and (C) below.

(B) Subsections (a) Plan Approval, (q) Public Participation, (s) Environmental Impact Statement, and (u) Delegation of Authority of subsection 52.21 are not included in this adoption by reference.

(C) The term "Administrator" as is appears in 40 CFR 52.21 shall mean the Director, except:

(1) In subparagraph (b)(3)(iii) relating to "net emissions increase" and (w)(2) relating to "permit rescission," it shall mean both the Director and the Administrator.

(2) It shall mean the Administrator in the following subsections:
(b)(17) Definition of federally enforceable
(f)(1)(v), (f) (3), (f)(4)(i) Exclusions from increment consumption
(g)(1) - (g)(6) Redesignation
(1)(2) Air Quality Models
(p)(1) - (p)(2) Sources impacting Federal Class I areas
(t) Disputed permits or redesignations

(D) The procedural requirements of 40 CFR 51.166 (q) (excluding the phrase "The plan shall provide that ...") are hereby adopted and incorporated herein, except that the phrase "specified time limit" shall mean thirty (30) days.

(E) The Director will transmit to the Administrator a copy of each permit application subject to this regulation and will notify the Administrator of each significant action the Director takes on the application.

Ref: Title 129, Chapter 18, Nebraska Department of Environmental Quality

SECTION 20. PARTICULATE EMISSIONS - LIMITATIONS AND STANDARDS

(For exceptions due to breakdowns or scheduled maintenance: See Section 35 of these Regulations and Standards)

(A) No person shall cause, suffer, allow or permit the emission of particulates from any processing machine, equipment, device or other articles, or combination thereof, except indirect heating equipment, incinerators and coatings bake off ovens (burn-off furnaces), in excess of the amounts allowed in Table 20-1 during any one hour.

(1) Coatings bake off ovens (burn-off furnaces) shall comply with the following requirements:

(a) Particulate matter discharged into the outdoor atmosphere shall not exceed 0.1 grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to 12% carbon dioxide.

(b) The oven's secondary combustion chamber shall be equipped with an auxiliary burner(s) capable of heating and maintaining the combustion in this chamber at a minimum temperature of 1,200°F. The burner(s) shall be interlocked with operation of the primary combustion chamber so that the oven can not be operated unless the secondary combustion chamber burner(s) is functioning.

(B) No person shall cause or allow particulate matter caused by the combustion of fuel to be emitted from any stack or chimney into the outdoor atmosphere in excess of the hourly rate set forth in the following table:

Total Health Input in Million British Thermal Units Per Hour	Maximum Allowable Emissions of Particulate Matter in Pounds per Million British Thermal Units
10 or less	0.60
10,000 or more	0.12

(C) The allowable emission rate for equipment having immediate heat input between 10 (10^6) BTU and 10,000 (10^6) BTU may be determined by the formula:

$$A = \frac{1.026}{I^{.233}}$$

A = The allowable emission rate in Lb/10^6 BTU
I = The total heat input in 10^6 BTU/Hr

(D) For the purpose of these Regulations and Standards, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(E) No person shall cause or allow emissions from any existing source, which are of an opacity equal to or greater than twenty percent (20%), as evaluated by an EPA approved method, or recorded by a continuous opacity monitoring system operated and maintained pursuant to 40 CFR Part 60 Appendix B except as provided for in paragraph (F) of this Section.

Table 20-1

Process Weight Rate Lb/Hr	Process Weight Rate Tons/Hr	Allowable Rate of Emission Lb/Hr	Process Weight Rate Lb/Hr	Process Weight Rate Tons/Hr	Allowable Rate of Emission Lb/Hr
100	0.05	0.551	16,000	8.000	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3.500	1.75	5.96	100,000	50.	44.6
4,000	2.0	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70	47.8
6,000	3.0	8.56	160,000	80.	49.0
7,000	3.5	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000	77.6
10,000	5.00	12.0	6,000,000	3,000	92.7
12,000	6.00	13.6			

Interpolation of the data in this table for process weight rates up to 60,000 Lb/Hr shall be accomplished by use of the equation $E = 4.10p.^{67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 Lb/Hr shall be accomplished by use of the equation $E = 55.0p.^{11}-40$, where E = rate of emission in Lb/Hr and P = process weight rate in Tons/Hr. If two or more units discharge into a single stack, the allowable emission rate will be determined by the sum of all process weights discharge into the single stack.

(F) Exceptions:

(1) Emission sources subject to monitoring requirements of Section 34, paragraph (E) of these Regulations and Standards are allowed to have one six minute period per hour of not more than 27 percent opacity.

(G) All sources shall comply with paragraph (E) of this Section unless a more stringent opacity standard applies as specified elsewhere in these Regulations and Standards.

Ref: Title 129, Chapter 20, Nebraska Department of Environmental Quality

SECTION 21. COMPLIANCE ASSURANCE MONITORING

The provisions of 40 CFR Part 64, as in effect on July 1, 2002 for purposes of implementing the compliance assurance monitoring program, is hereby adopted and incorporated by reference.

Ref: Title 129, Chapter 31, Nebraska Department of Environmental Quality

SECTION 22. INCINERATOR EMISSIONS

The following categories of waste burning combustion units shall be regulated by this Section:

(A) Small municipal waste combustion units for which construction is commenced after August 30, 1999 or for which modification or reconstruction is commenced after June 6, 2001 (40 CFR Part 60 Subpart AAAA). This standard applies to municipal waste combustion units that meet two criteria:
   (1) The unit is new as defined at Section 60.1015, Subpart AAAA.
   (2) The unit has the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel. There are units that are exempt from the requirements of this subpart. Section 60.1020(a) through (k) should be consulted to determine whether a specific type of unit is exempt.

(B) Small municipal waste combustion units constructed on or before August 30, 1999 (40 CFR Part 60 Subpart BBBB, Emission Guidelines and Compliance Times)
As of the effective date of these revised Regulations and Standards there are currently no existing municipal waste combustions units located within Lincoln-Lancaster County that have the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refused derived fuel and were constructed on or before August 30, 1999.

(C) Air curtain incinerators (as defined in Section 60.1465 of 40 CFR Part 60 Subpart AAAA) that burn 100 percent yard waste (as defined in Section 60.1440 of Subpart AAAA)
These units shall comply with the requirements of 40 CFR Part 60 Subpart AAAA, Section 60.1445, 60.1450, and 60.1455. These requirements apply to air curtain incinerators that combust at least 35 tons per day of municipal solid waste and no more than 250 tons per day of municipal solid waste. As of the effective date of these Regulations and Standards there are no air curtain incinerators located within Lincoln-Lancaster County.

Any air curtain incinerators that are installed in Lincoln-Lancaster County and that have a burn limit of less than 35 tons per day of 100 percent yard waste shall meet these limits: (1) The opacity limit is 15 percent (6 minute average) except at startup; and (2) The opacity limit is 40 percent (6 minute average) during the startup period that is within the first 30 minutes of operation. Monitoring, record keeping and reporting requirements shall be those established by the Department.

(D) Large municipal waste combustors that are constructed on or before September 20, 1994 (40 CFR Part 60 Subpart Cb, Emission Guidelines and Compliance Times)
As of the effective date of these revised Regulations and Standards there are currently no existing municipal waste combustion units located in Lincoln-Lancaster County with a combustion capacity greater than 250 tons per day of municipal solid waste and were constructed on or before September 20, 1994.

(E) Hospital/medical/infectious waste incinerators constructed on or before June 20, 1996 (40 CFR Part 60 Subpart Ce, Emission Guidelines and Compliance Times)
A hospital/medical/infectious waste incinerator or HMIWI unit means any device that combusts any amount of Type 5 waste. A combustor is not subject to this subpart if it qualifies under one of the exceptions listed in paragraphs (b) through (h) of Section 60.32e, Subpart Ce. As of the effective date of these Regulations and Standards there are currently no hospital/medical/infectious waste incinerators located in Lincoln-Lancaster County that were constructed on or before June 20, 1996 that are subject to this subpart.

(F) Commercial and industrial solid waste incineration units for which construction commenced after November 30, 1999 or for which modification or reconstruction is commenced on or after June 1, 2001 (40 CFR Part 60 Subpart CCCC)
A commercial and industrial solid waste incinerator is a combustion device as defined in Section 60.2265 of Subpart CCCC. A combustor is not subject to this subpart if it qualifies under one of the exceptions listed in paragraphs (a) through (o) of Section 60.2020, Subpart CCCC. As of the effective date of these Regulations and Standards there are currently no commercial and industrial solid waste incineration units located in Lincoln-Lancaster County that were constructed after November 30, 1999 or that have been modified or reconstructed on or after June 1, 2001 that are subject to this subpart.

(G) Commercial and industrial solid waste incineration units that commenced construction on or before November 30, 1999 (40 CFR Part 60 Subpart DDDD, Emission Guidelines and Compliance Times)
A commercial and industrial solid waste incinerator as defined in Section 60.2875 of Subpart DDDD and that is not exempt according to Section 60.2555 of Subpart DDDD is subject to the emission guidelines and compliance times of this subject if it was constructed on or before November 30, 1999. As of the effective date of these Regulations and Standards there are currently no commercial and industrial solid waste incineration units located in Lincoln-Lancaster County that were constructed on or before November 30, 1999 that are subject to this subpart.

(H) Incinerators, as defined at 40 CFR Part 60, Subpart E, Section 60.51, charging more than 50 tons per day that were constructed or modified after August 17, 1971 (40 CFR Part 60 Subpart E)
As of the effective date of these Regulations and Standards there are currently no incinerators located in Lincoln-Lancaster County that were constructed or modified after August 17, 1971 that are capable of charging more than 50 tons per day of solid waste.

(I) Municipal waste combustors constructed after December 20, 1989 and on or before September 20, 1994 (40 CFR Part 60 Subpart Ea)
This subpart applies to municipal waste combustion units with capacities greater than 250 tons per day of municipal solid waste that were constructed after December 20, 1989 and on or before September 20, 1994 or were modified or reconstructed after December 20, 1989 and on or before June 19, 1996 unless the combustor is excepted under one of the provisions, paragraphs (c) through (k), of Section 60.50a, Subpart Ea. As of the effective date of these Regulations and Standards there are currently no municipal solid waste combustors located in Lincoln-Lancaster County that are subject to this subpart.

(J) Large municipal waste combustors constructed after September 20, 1994 or modified or reconstructed after June 19, 1996 (40 CFR Part 60, Subpart Eb)
This subpart applies to large municipal waste combustion units with capacities greater than 250 tons per day of municipal solid waste which are constructed, modified or reconstructed after the dates indicated herein unless the combustor is excepted under one of the provisions, paragraphs (b), (d), (e), (f), (g), (h), (i), (j), (m), and (p), of Section 60.50b, Subpart Eb. As of the effective date of these Regulations and Standards there are currently no large municipal solid waste combustors located in Lincoln-Lancaster County that are subject to this subpart.

(K) Hospital/medical/infectious waste incinerators constructed after June 20, 1996 or modified after March 16, 1998 (40 CFR Part 60 Subpart Ec)
A hospital/medical/infectious waste incinerator or HMIWI unit means any device that combusts any amount of Type 5 waste. A combustor in not subject to this subpart if it qualifies for an exemption under one of the provisions listed in paragraphs (b) through (h) of Section 60.50c, Subpart Ec. As of the effective date of these Regulations and Standards there are currently no hospital/medical/infectious waste incinerators located in Lincoln-Lancaster County that are subject to this subpart.

(L) Hazardous waste combustors

A hazardous waste combustor means a hazardous waste incinerator, hazardous waste burning cement kiln, or hazardous waste burning lightweight aggregate kiln. Hazardous waste is defined in 40 CFR Part 261 Subpart A, Section 261.3. A source planning to construct a hazardous waste incinerator in Lincoln-Lancaster County shall contact both the Department and the Nebraska Department of Environmental Quality to determine all of the requirements that are applicable to a facility of this nature and to be advised as to which agency is responsible for specific requirements. A significant number of requirements that are applicable to hazardous waste incinerators are not part of the air quality Regulations and Standards administered by the Lincoln-Lancaster County Health Department.

(M) Other incineration units

Incineration units that are not subject to the requirements in paragraphs (A) through (L) of this section shall comply with the following requirements:

(1) No person shall cause or permit emissions of particulate matter from any incinerator to be discharged into the outdoor atmosphere to exceed 0.10 grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to 12% carbon dioxide. The exhaust gases contributed by the burning of a liquid or gaseous fuel shall be excluded.

(2) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Director in accordance with good engineering practice.

(3) Waste burned during performing testing required by paragraph (4) below shall be representative of the waste normally burned by the affected facility and shall be charged at a rate equal to the burning capacity of the incinerator. Copies of additional operational data recorded during the test shall be submitted to the Department together with the completed test report forms.

(4) Instructions for proper operation of each incinerator shall be posted on site and written certification that each operator has read these instructions, understands them and intends to comply, shall be kept on record by the owner.

(5) Each incinerator shall meet the design criteria as set forth in the definition of incinerator at Article 2, Section 1 of these Regulations and Standards and shall meet the additional requirement that the products of combustion be vented through an adequate stack, duct, or chimney.

(6) Chemotherapeutic and low level radioactive wastes (as defined at 40 CFR Part 60 Subpart Ec, Section 60.51c) shall not be incinerated.

Typically, other incineration units include those that incinerate Type 4 (pathological) waste, crematories for humans and animals and those that incinerate a variety of a wastes including municipal solid waste.

Ref: Title 129, Chapter 22, Nebraska Department of Environmental Quality

SECTION 23. HAZARDOUS AIR POLLUTANTS--EMISSION STANDARDS

(A) Notwithstanding any other provisions of these regulations, the following "National Emissions Standards for Hazardous Air Pollutants", published at 40 CFR, Part 61 effective July 1, 2001, are hereby adopted and incorporated herein:

(1) Subpart A - General Provisions
(2) Subpart C - National Emission Standard for Beryllium
(3) Subpart D - National Emission Standard for Beryllium Rocket Motor Firing
(4) Subpart E - National Emission Standard for Mercury
(5) Subpart F - National Emission Standard for Vinyl Chloride
(6) Subpart J - National Emission Standard for Equipment Leaks (fugitive emission sources) of Benzene
(7) Subpart L - National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
(8) Subpart M - National Emission Standard for Asbestos, and the following:
    (a) All asbestos containing waste covered under 40 CFR 61.144, 61.145, 61.146, and 61.147 Subpart M shall be maintained in an adequate wetted state until disposed of by acceptable methods.
    (b) All asbestos containing waste bags shall be transparent so that the asbestos-containing material (ACM) is visible after packaging.
    (c) Containment projects shall use a viewing window or windows where ever practical.
(9) Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
(10) Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
(11) Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
(12) Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
(13) Subpart Y - National Emission Standard for Benzene Emissions from Benzene Storage Vessels
(14) Subpart BB - National Emission Standard for Benzene from Benzene Transfer Operations
(15) Subpart FF - National Emission Standard for Benzene Waste Operations.
(16) Appendices A, B, and C

Ref: Title 129, Chapter 23, Nebraska Department of Environmental Quality

SECTION 24. SULFUR COMPOUND EMISSIONS -- EXISTING SOURCES -- EMISSION STANDARDS

(A) No person shall allow sulfur oxides to be emitted from any existing fossil fuel burning equipment in excess of two and one half (2.5) pounds per million BTU input, maximum 2-hour average.

(B) For the purpose of these Regulations and Standards, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater.

Ref: Title 129, Chapter 24, Nebraska Department of Environmental Quality

SECTION 25. NITROGEN OXIDES (CALCULATED AS NITROGEN DIOXIDE) -- EMISSIONS STANDARDS FOR EXISTING STATIONARY SOURCES

(A) No owner or operator of an installation producing nitric acid, either as an end product or for use in intermediate steps in production of other products, will allow emissions of oxides of nitrogen (calculated as nitrogen dioxide) to exceed 5.5 pounds per ton of 100 percent nitric acid produced, or a concentration equivalent to 400 parts per million (ppm) by volume, whichever is more stringent.

Ref: Title 129, Chapter 25, Nebraska Department of Environmental Quality

SECTION 26. ACID RAIN

(A) The provisions of 40 CFR Part 72, as in effect on July 1, 2001, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference. The term "permitting Authority" shall mean the Department and the term "administrator" shall mean the Administrator of the U.S. Environmental Protection Agency.

(B) If the provisions or requirements of 40 CFR Part 72 conflict with other provisions of these Regulations and Standards as they apply to affected sources, the Part 72 provisions and requirements shall apply and take precedence.

(C) The provisions of 40 CFR Part 75, as in effect on July 1, 2001, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference.

(D) The provisions of 40 CFR Part 76, as in effect on July 1, 2001, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference.

Ref: Title 129, Chapter 26, Nebraska Department of Environmental Quality

SECTION 27. HAZARDOUS AIR POLLUTANTS -- MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT)

(A) Notwithstanding any other provisions of these Regulations and Standards, Sections 63.70 through 63.81 of Title 40 Code of Federal Regulations (CFR) Part 63, Subpart D, effective December 29, 1992, pertaining to compliance extensions for early reductions, are hereby adopted and incorporated by reference.

(B) Requirements for new, modified, or reconstructed sources of hazardous air pollutants: A permit will be issued for construction, reconstruction, or modification of a source with the potential to emit any hazardous air pollutant in an amount equal to or in excess of the level specified in Section 17, subparagraph (A)(1)(h) of these Regulations and Standards only if best available control technology (as determined by the Director) is applied for each hazardous air pollutant and the source will comply with all other requirements of these Regulations and Standards. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Section 18, Section 23, Section 27, or Section 28.

(C) Requirements for new or reconstructed major sources of hazardous air pollutants. A permit as required under subparagraph (A)(1)(h) of Section 17 for construction or reconstruction of a source with the potential to emit an amount equal to or in excess of 10 tons per year of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, will only be issued if maximum achievable control technology, as determined by the Director, is applied, and the source is required to comply with all other requirements of these Regulations and Standards.

(1) For purposes of this section, 40 CFR Part 63, sections 63.40(b); 63.41; 63.42(c); 63.43(a), (b), and (d); and 63.44, as in effect on December 27, 1996, are hereby adopted and incorporated by reference.

(2) Except as provided in (C)(1), the provisions and procedures of Section 17 and (B) above apply.

(D) Notwithstanding any other provisions of these Regulations and Standards, Section 63.50 through 63.56 of Title 40 Code of Federal Regulations (CFR) Part 63. Subpart B, as amended at 67 Federal Register 16582 on April 5, 2002, pertaining to maximum achievable control technology determinations for emission units subject to case-by-case determination of equivalent emission limitations, are hereby adopted and incorporated by reference.

(E) Notwithstanding any other provisions of these Regulations and Standards, Title 40 Code of Federal Regulations (CFR) Part 68, Subparts A thru H, effective January 6, 1998, pertaining to Chemical Accident Release Prevention, are hereby adopted and incorporated by reference.

Ref: Title 129, Chapter 27, Nebraska Department of Environmental Quality

SECTION 28. HAZARDOUS AIR POLLUTANTS -- MACT EMISSION STANDARDS.

Notwithstanding any other provisions of these Regulations and Standards, the following "National Emission Standards for Hazardous Air Pollutants" published at 40 CFR Part 63 effective July 1, 2002 are hereby adopted and incorporated herein:

(1) Perchloroethylene Dry Cleaning Facilities - Subpart M
(2) General Provisions - Subpart A
(3) Hard and Decorative Chromium Electroplating and Anodizing Tanks - Subpart N
(4) Ethylene Oxide Commercial Sterilizers and Fumigation Operations - Subpart O
(5) Chromium Emissions from Industrial Process Cooling Towers - Subpart Q
(6) Gasoline Distribution Facilities - Subpart R
(7) Halogenated Solvent Cleaning Machines - Subpart T
(8) Magnetic Tape Manufacturing Operations - Subpart EE
(9) Hazardous Organic NESHAPs - Subparts F, G, H, and I
(10) Aerospace Industry - Subpart GG
(11) Off-Site Waste Operations - Subpart DD
(12) Petroleum Refineries - Subpart CC
(13) Printing/Publishers Ind. - Subpart KK
(14) Polymer & Resins - Subpart U
(15) Polymer & Resins - Subpart W
(16) Polymer & Resins - Subpart JJJ
(17) Secondary Lead Smelters - Subpart X
(18) Wood Furniture Manuf. - Subpart JJ
(19) Tanks-Level 1, Subpart 00
(20) Containers, Subpart PP
(21) Surface Impoundments, Subpart QQ
(22) Individual Drain Systems, Subpart RR
(23) Oil-Water Separators and Organic-Water Separators, Subpart VV
(24) Polyethylene Terephthalate and Styrene Polymer Production, Subpart JJJ
(25) Pulp and Paper Manufacturing - Subpart S
(26) Phosphoric Acid Manufacturing Plants - Subpart AA
(27) Phosphate Fertilizers Production Plants - Subpart BB
(28) Petroleum Refineries - Subpart CC
(29) Oil and Gas Production Facilities - Subpart HH
(30) Primary Aluminum Reduction Plants - Subpart LL
(31) Closed Vent Systems/Control Devices - Subpart SS
(32) Equipment Leaks Control Level 1 - Subpart TT
(33) Equipment Leaks Control Level 2 - Subpart UU
(34) Storage Tanks Control Level 2 - Subpart WW
(35) Generic MACT Standards - Subpart YY
(36) Steel Pickling Plants (HCI Process and Hydrochloric Acid Regeneration Processes) - Subpart CCC
(37) Mineral Wool Production - Subpart DDD
(38) Pharmaceutical Production - Subpart GGG
(39) Natural Gas Transmission and Storage Facilities - Subpart HHH
(40) Flexible Polyurethane Foam Production - Subpart III
(41) Portland Cement Manufacturing - Subpart LLL
(42) Pesticide Active Ingredient Production - Subpart MMM
(43) Wool Fiberglass Manufacturing - Subpart NNN
(44) Polyether Polyols Production - Subpart PPP
(45) Primary Lead Smelting - Subpart TTT
(46) (Ferromanganese and Silieomanganese Production - Subpart XXX
(47) Hazardous Waste Combustors - Subpart EEE
(48) Manufacture of Amino/Phenolic Resins - Subpart OOO
(49) Secondary Aluminum Production - Subpart RRR

(50) Publicly Owned Treatment Works - Subpart VVV
(51) Solvent Extraction for Vegetable Oil Production - Subpart GGGG
(52) Boat Manufacturing - Subpart VVVV
(53) Manufacturing of Nutritional Yeast - Subpart CCCC

SECTION 29. OPERATING PERMIT EMISSION FEES

(A) Applicability--The provisions of this Regulations and Standards section shall apply to any person who owns or operates a major source as defined in Section 2 of these Regulations and Standards who is required to obtain a Class I permit in accordance with Section 5 of these Regulations and Standards.

(B) Calculation of Fee--Beginning July 1, 1995, owners or operators of major sources, identified in (A) above, shall pay an annual emission fee for each ton of a regulated pollutant emitted to the air by the facility. Any temporary source issued a Class I permit under Section 10 shall pay an annual emission fee for emissions during the time period the source was located and operated in Lincoln or Lancaster County. The fee shall be based on the actual emission tonnage and as established in the emission inventory for the previous calendar year, beginning with calendar year 1994. For purposes of this section, a pollutant which may be regulated under more than one provision of these regulations and standards, need only be counted once.

(1) The emission fee shall be determined by multiplying $25 per ton of regulated pollutant for fee purposes reported in the annual emission inventory report required in Section 6 of these Regulations and Standards. The emission fee shall be increased or decreased annually by the Department in each year, beginning after 1991, by the percentage difference between the Consumer Price Index (CPI) for the most recent year ending before the beginning of such year and the CPI for the year 1989 or as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit programs identified in these Regulations and Standards.

(2) The emission fee is due and payable on Actual emissions up to and including 4,000 tons per year for each regulated pollutant.

(C) Any person subject to the requirements of this section who fails to submit an annual emissions inventory report when required by Section 6 of these Regulations and Standards shall pay an annual emission fee based on the source's potential to emit as defined in Section 1 of these Regulations and Standards.

(D) Payment of Fees--Any person required to submit fees pursuant to this Section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln- Lancaster County Health Department. The fees shall be due and payable on July 1 of each year, beginning with calendar year 1995, with submission of the annual emission inventory report form. All fees paid in accordance with this Section shall be non-refundable.

(E) Failure to submit the fees required by this section, in addition to other relief allowed by law, shall be cause for:

(1) Revocation of the source's Class I operating permit; and

(2) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (D) above.

(F) If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this section, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If any annual emission inventory report form which is modified pursuant to this Section results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with paragraph (D) above.

(G) The rate structure will be reviewed annually by the Director, and a report submitted to the Board of Health. The Board of Health shall recommend any modifications to the Lincoln City Council and the Lancaster County Board of Commissioners. The new rate structure will be adopted by Resolution of the two governing bodies.

(H) All money collected from the permit fees, and air quality service charges herein provided for shall be payable to the Lincoln-Lancaster County Health Department and shall be credited to the Air Pollution Control Fund.

SECTION 30. CONSTRUCTION PERMIT FEE

(A) A fee shall be charged for the review of an application for a permit for the construction, installation, modification, or reconstruction of processing machines, equipment or devices, fuel burning equipment, and waste incinerators at the rate of $75.00 per hour which fee shall not exceed a maximum of $7,500.00.

(B) Payment of Fees - - any person required to submit fees pursuant to this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after receipt of issuance of the permit.

SECTION 31. ONE YEAR SPECIAL EMISSION FEE.

(A) On or before July 1, 1994, owners or operators of sources of air pollutants which have reported 1992 emissions that would make them a Class I or Class II source as described in Section 5, subparagraphs (A)(1) and (2) shall pay an emission fee of $200 plus $2.50 per ton for each ton of regulated pollutant being emitted.

(B) Payment of Fees. Any person required to submit fees pursuant to this Section, shall submit the fees to the Director by check or other authorized transfer, made payable to the Lincoln- Lancaster County Health Department. The fees shall be due and payable on July 1, 1994 with submission of the annual emission inventory report form. All fees paid in accordance with this section shall be non-refundable.

(C) Failure to submit the fees required by this section, in addition to other relief allowed by law, shall be cause for assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (B) above.

SECTION 32. DUST -- DUTY TO PREVENT ESCAPE OF

(A) Handling, Transportation, Storing. No person may cause or permit the handling, transporting or storage of any material in a manner which may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.

(B) Construction, Use, Repair, Demolition. No person may cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures to prevent particulate matter from becoming airborne so that it remains visible beyond the premises where it originates. The Director may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne, including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

(C) Notwithstanding any other provisions of this Section, the Department shall not regulate emissions from normal farming practices, farm crop drying and handling, or animal feeding activities, provided that reasonable and practical measures to limit particulate matter from such sources are utilized.

Ref: Title 129, Chapter 32, Nebraska Department of Environmental Quality

SECTION 33. COMPLIANCE -- TIME SCHEDULE FOR

(A) Except as otherwise noted in specific emission control regulations, compliance with these Regulations and Standards shall be according to the following schedule:

(1) All new or modified installations that required approval under the provisions of Section 17 of these Regulations and Standards shall be in compliance with all applicable emission control regulations at start-up after the effective date of the applicable emission control regulation. Provided, however, such installation may, at the request of the operator and under conditions approved by the Department, be operated for such specified time periods as are required to make necessary adjustments on the equipment. Compliance must be demonstrated in conformance with Section 34 of these Regulations and Standards.

(2) All existing installations subject to Section 2, subparagraphs (A)(1) and (A)(2) of these Regulations and Standards shall be in compliance with these Regulations and Standards within 180 days after the effective date of these Regulations and Standards and shall certify compliance and state the method used to determine compliance, unless the person responsible for the operation of such installation has submitted a request to, and received a variance from, the Department to continue such operation in non-conformance with the regulations for a specified period of time beyond the 180 day period provided for compliance.

(3) All requests for variances shall be submitted in writing to the Department and, in addition to statutory requirements, shall contain the following information:

(a) A description of the particular operation or installation affected.

(b) The reason for being unable to meet the requirements for these Regulations and Standards.

(c) A specific time schedule showing increments of progress toward compliance, including:

(1) Date of submittal of the source's final control plan to the appropriate air pollution control agency;

(2) Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(3) Date of initiation of on site construction or installation of emission control equipment or process change;

(4) Date by which on site construction or installation of emission control equipment or process modification is to be completed; and

(5) Date by which final compliance is to be achieved.

(d) The notarized signature of the person responsible for the operation or installation.

(e) Any other supporting documentation specifically requested by the Department and deemed pertinent to consideration of the individual request.

(B) Compliance schedules requiring more than 12 months to conform with applicable rules and regulations to meet National Primary and Secondary Ambient Air Quality Standards will be accomplished in progressive steps. A report will be made in writing to the Director within 5 days after each step is completed.

(C) Failure to meet time schedules approved in accordance with subparagraphs (A)(1) and (A)(2) above shall constitute a violation of these Regulations and Standards unless a request to amend the time schedule is received at least 30 days before the end of any specified period approved for a particular activity. Such a request to amend the schedule shall contain the same type of information as required for the initial request for variance as described in Section (A)(3) above.

Ref: Title 129, Chapter 33, Nebraska Department of Environmental Quality

SECTION 34. EMISSION SOURCES -- TESTING -- MONITORING

(A) The Department may require any person responsible for the operation of an emission source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe on the basis of estimates of potential contaminant emissions rates from the source and due consideration of probable efficiency of any existing control device, or visible emission determinations made by an official observer, that existing emissions exceed the limitations required in these control Regulations and Standards. Such tests may also be required pursuant to verifying that any newly installed control device meets performance specifications. Should the Department determine that the test did not represent normal operating conditions or emissions, additional tests may be required. Such a requirement shall be considered as an order and subject to all administrative and legal requirements specified.

(B) Required tests shall be conducted in accordance with the following test methods and procedures, as applicable:
- (1) 40 CFR Part 51, Appendix M, effective July 1, 1996
- (2) 40 CFR Part 60, Appendices A, B, C, F, effective July 1, 1996
- (3) 40 CFR Part 61, Appendix B, effective July 1, 1996
- (4) 40 CFR Part 63, Appendix A, 57 Federal Register 61970, December 29, 1996
- (5) 40 CFR Part 266, Appendix IX, July 1, 1995
- (6) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846 (3rd Edition) (November 1986) and its Revisions I, II and III, effective June 13, 1997.
- (7) Such tests shall be conducted by reputable, qualified individuals. A certified written copy of the test results signed by the person conducting the test shall be provided to the Department within 45 days of completion of the test.

(C) The owner or operator of a source shall provide the Department 30 days notice prior to testing to afford the Department an opportunity to have an observer present.

(D) The Department may conduct tests of emissions of contaminants from any stationary source.
- (1) Upon written request from the Department, the person responsible for the source to be tested shall cooperate with the Department in providing all necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices, as may be reasonably required to conduct the test with due regard being given to expenditures and possible disruption of normal operations of the source.
- (2) A report concerning the findings of such tests shall be furnished to the person responsible for the source upon request.

(E) A continuous monitoring system for the measurement of opacity shall be installed and placed in operation by the owner or operator of any fossil fuel-fired steam generator with greater than 250 million BTUs per hour heat input. Exemptions from this requirement will be made if gaseous fuel and oil is the only fuel burned and the source has never been found to be in violation of Section 20 of these Regulations and Standards. Installation, calibration, operation and reporting shall be in accordance with the procedures specified in 40 CFR Part 60.

(F) The Director may require the owner or operator of any other emission source which is subject to the provisions of these regulations to install, use and maintain such stationary monitoring equipment as is required to demonstrate continuing compliance with any applicable emissions limitations, and to maintain records and make reports regarding such measured emissions to the Department in a manner and on a schedule to be determined by the Director.

(G) When a new or modified stationary source becomes operational, the owner or operator will submit a written report of performance tests if required to the Director within 60 days after reaching maximum capacity but not later than 180 days after the startup of operations. Failure to meet established performance standards will result in withdrawal of the provisional approval granted to operate the new or modified stationary source. Final approval and issuance of an operating permit will be withheld for operation of the affected facility until such time as the owner or operator has corrected the deficiencies determined by the performance tests. Upon satisfactory accomplishment of a valid series of performance tests, approval for operation of the new or modified stationary source will be granted through issuance of an operating permit in accordance with Article 2, Section 5 of these Regulations and Standards.

(H) Notwithstanding any other provisions of these Regulations and Standards, the following methods may be used to determine compliance with applicable requirements:

(1) A monitoring method approved for the source and incorporated in an operating permit pursuant to Section 8;
(2) Any compliance test method specified in the State Implementation Plan;
(3) Any test or monitoring method approved for the source in a permit issued pursuant to Section 17, Section 19 or Section 27;
(4) Any test or monitoring method provided for in these Regulations and Standards; or
(5) Any other test, monitoring, or information gathering method that produces information comparable to that produced by any method described in items (1) through (4) of this subsection.

Ref: Title 129, Ch. 34, Nebraska Department of Environmental Quality

SECTION 35. COMPLIANCE -- EXCEPTIONS DUE TO STARTUP SHUTDOWN OR MALFUNCTION

(A) Upon receipt of a notice of excess emissions issued by the Department the source to which the notice is issued may provide information showing that the excess emissions were the result of a malfunction, start-up, or shutdown. Based upon any information submitted by the source operator, and any other pertinent information available, the Director shall make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown, and whether the nature, extent and duration of the excess emissions warrant enforcement action. In determining whether enforcement action is warranted, the Director shall consider the following:

(1) Whether the excess emissions during start-up, shutdown or malfunction, occurred as a result of safety, technological or operating constraints of the control equipment, process equipment, or process.
(2) Whether the air pollution control equipment, process equipment, or processes were maintained and operated to the maximum extent practical for minimizing emissions.
(3) Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring.
(4) Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of such emissions.
(5) Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality.

(B) The information provided by the source operator under paragraph (A) above, shall include, at a minimum, the following:

(1) Name and location of installation.
(2) Name and telephone number of the person responsible for the installation.
(3) The identity of the equipment causing the excess emissions.
(4) The time and duration of the period of excess emissions.
(5) The cause of the excess emissions.
(6) The type of air contaminant involved.
(7) A best estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and calculations used in estimating the magnitude.
(8) The measures taken to mitigate the extent and duration of the excess emissions.
(9) The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

(C) The information specified in paragraph (B) above shall be submitted to the Director not later than 15 days after receipt of the notice of excess emissions.

(D) Planned Start-Up and Shutdown Reporting

The owner or operator of an installation subject to these Regulations and Standards shall notify the Director, in writing, whenever a planned start-up or shutdown may result in excess emissions. This notice shall be mailed no later than 10 days prior to such action, and shall include, but not be limited to, the following information:

(1) Name and location of the installation.
(2) Name and telephone number of the person responsible for the installation.
(3) The identity of the equipment which may cause excess emissions.
(4) Reasons for proposed shutdown or start-up.
(5) Duration of anticipated period of excess emissions.
(6) Date and time of proposed shutdown or start-up.
(7) Physical and chemical composition of pollutants whose emissions are affected by the action.
(8) Methods, operating data, and/or calculations used to determine these emissions.
(9) Quantification of emissions during such action in the units of the applicable emission control regulation.
(10) All measures planned to minimize the extent and duration of excess emissions during the shutdown and ensuing start-up.

(E) Malfunction and Unplanned Shutdown Reporting
The owner or operator of an installation subject to these Regulations and Standards shall notify the director, in writing, whenever emissions due to malfunctions, unplanned shutdowns or ensuing start-ups are, or may be, in excess of applicable emission control regulations. Such notification shall be mailed within 48 hours of the beginning of each period of excess emissions, and shall include, but not be limited to, the information required by paragraph (D) of this section.

(F) The Director shall make a determination of whether or not excess emissions were due to start-up, shutdown, or malfunction, and what, if any, enforcement action should be taken. The Director will consider the following in making his determination:
(1) All notification requirements of these Regulations and Standards have been met.
(2) The malfunction, shutdown, or start-up did not result entirely or in part from poor maintenance, careless operation, or any other preventable upset conditions or equipment breakdowns.
(3) All reasonable steps were taken to correct the conditions causing the excess emissions, as expeditiously as practicable, including the use of off-shift labor and overtime if necessary.
(4) All reasonable steps were taken to minimize the emissions and their effect on air quality.
(5) The malfunction or shutdown is not part of a recurring pattern indicative of inadequate design, operation, or maintenance.
(6) The excess emissions are not a threat to public health or ambient air quality.

(G) If the Director determines that the reporting requirements of paragraph (B) and/or paragraph (D) of this section are inappropriate to a particular installation, he may establish other reporting requirements which are sufficient to allow the determinations described in (F) above.

(H) Nothing in this regulation shall be construed to limit the authority of the Director to take appropriate action to enforce the provisions of these Regulations and Standards.

Ref: Title 129, Chapter 35, Nebraska Department of Environmental Quality

SECTION 36. CONTROL REGULATIONS -- CIRCUMVENTION -- WHEN EXCEPTED

(A) No person shall cause or permit the installation or use of any machine, equipment, device or other article, or alter any process in any manner which conceals or dilutes the emissions of contaminants without resulting in a reduction of the total amounts of contaminants emitted.

(B) Exception to paragraph (a) above may be granted by the Director, upon request, provided that such action is intended to convert the physical or chemical nature of the contaminant emission and that failure to reduce total contaminant emissions results solely from the introduction of contaminants which are not deemed to be detrimental to the public interest.

Ref: Title 129, Chapter 36, Nebraska Department of Environmental Quality

SECTION 37. COMPLIANCE -- RESPONSIBILITY OF OWNER/OPERATOR PENDING REVIEW BY DIRECTOR

Application for review of plans or advice furnished by the Director will not relieve an owner or operator of a new or modified stationary source of legal compliance with any provision of these Regulations and Standards, or prevent the Director from enforcing or implementing any provision of these Regulations and Standards.

Ref: Title 129, Chapter 37, Nebraska Department of Environmental Quality

SECTION 38. EMERGENCY EPISODES -- OCCURRENCE AND CONTROL -- CONTINGENCY PLANS

(A) Whenever the Director finds that an emergency exists requiring immediate action to protect the public health and welfare, he shall issue an announcement to the general public. In addition, the Director is required to issue an order, showing the date of issuance, stating the existence of such an emergency and requiring such action be taken as deemed necessary to meet the emergency. The Director shall hold a hearing on the emergency order 10 days after its issuance if requested. Said hearing shall be held in accordance with provisions specified by the Lincoln City Council and Lancaster County Board of Commissioners.

(B) Regulations which shall be enforced in the event of an Air Pollution Emergency Episode are attached hereto as Appendix I and hereby incorporated in these regulations the same as if set out herein verbatim. Appendix I is designed to prevent the excessive buildup of air pollutants to concentrations which can result in an imminent and substantial danger to public health.

(C) Episode Criteria

(1) Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Director will be guided by the following:

(a) Air Pollution Forecast - An internal watch by the Department shall be actuated by National Weather Service Advisory that Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric conditions.

(b) Alert - The "Alert" level is defined as that concentration of pollutants which require initiation of first stage emission control actions. An air pollution "Alert" will be declared when any one of the following levels is reached at any monitoring site:

SO_2 - 800 ug/m^3 (0.3 ppm), 24 hour average

PM_{10} - 350 ugs/m^3, 24 hour average

CO - 17 mg/m3 (5 ppm), 8 hour average

Ozone (O_3) - 400 ug/m^3 - (0.2 ppm) 1 hour average

NO_2 - 1130 ug/m^3 (0.6 ppm), 1 hour average; 282 ug/m^3 (0.15 ppm), 24 hour average.
and, that meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

(c) Warning - The "Warning" level indicates that air quality is continuing to degrade - pollutant concentrations are increasing - and that additional control actions are necessary. An air pollution "Warning" will be declared when any one of the following levels is reached at any monitoring site:
SO_2 - 1600 ug/m³. (0.6 ppm), 24 hour average
PM_{10} - 420 ugs/m³, 24 hour average
CO - 34 mg/m³ (30 ppm), 8 hour average
Ozone (O3) - 800 ug/m^3 (0.4 ppm), 1 hour average
NO_2 - 2260 ug/m^3 (.2 ppm), 1 hour average, 565 ug/m^3 (0.3 ppm) 24 hour average.
and, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

(d) Emergency - The "Emergency" level indicates that air quality is continuing to degrade to a level that should never be reached, totally unacceptable, and that the most stringent actions are necessary. An air pollution "Emergency" will be declared when any one of the following levels is reached at any monitoring sites:
SO_2 - 2100 ug/m^3. (0.8 ppm), 24 hour average
PM_{10} - 500 ugs/m^3, 24 hour average
CO - 46 mg/m^3 (40 ppm), 8 hour average
Ozone (O3) - 1000 ug/m^3 (0.5 ppm), 1 hour average
NO_2 - 3000 ug/m^3 (.6 ppm), 1 hour average; 750 ug/m^3 (0.4 ppm), 24 hour average.
and, meteorological conditions are such that this condition can be expected to continue for 12 or more hours.

(e) Termination - When any of the above three levels of air pollution has been declared (by virtue of pollutant concentrations meeting the defined criteria for the level) the declared level will remain in effect until the concentrations fall below the specified criteria. The new lower level(s) will be assumed until the pollutant concentrations decrease below the criteria defined for the "alert" level, at which time the episode will be declared "terminated". The concomitant "emission reduction actions" for any declared level cannot be relaxed until the declared level criteria are determined to be no longer met.

(D) Emission Reduction Plans

(1) Air Pollution Alert - When the Director declares an Air Pollution Alert, any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 1.1 shall take all Air Pollution Alert actions as are required for such source of air pollutants and shall put into effect the pre-planned abatement strategy for an Air Pollution Alert.

(2) Air Pollution Warning - When the Director declares an Air Pollution Warning, any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 1.2 shall take all Air Pollution Emergency Actions as required for such source of air pollutants and shall put into effect the pre-planned abatement strategy for an Air Pollution Warning.

(3) Air Pollution Emergency - When the Director declares an Air Pollution Emergency, any person responsible for the operation of a source of air pollutants as described in Appendix I, Paragraph 1.3 shall take all Air Pollution Emergency Actions as required for such source of air pollutants and shall put into effect the pre-planned abatement strategy for an Air Pollution Emergency.

(4) When the Director determines that a specified criteria level has been reached at one or more monitoring sites solely because of emissions from a limited number of sources, he shall notify such source(s), that the pre-planned abatement strategies of Appendix I, Paragraph 1.2 and 1.3 or of the standby plans are required insofar as it applies to such source(s), and shall be put into effect until the criteria of the specified level are no longer met.

(E) Pre-planned Abatement Strategies

(1) Any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 1.4 shall prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth in Appendix I, Paragraph 1.1, 1.2, and 1.3 which are made a part of this section.

(2) Any person responsible for the operation of a source of air pollutants not set forth under Appendix I, Paragraph 1.4 shall, when requested by the Director in writing, prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth as above.

(3) Standby plans as required under sub paragraphs (E)(1) and (E)(2) of this section shall be in writing and identify the sources of air pollutants, the approximate amount of reduction of pollutants and a brief description of the manner in which the reduction will be achieved during an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency.

(4) During a condition of Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency, standby plans as required by this section shall be made available on the premises to any person authorized to enforce the provisions of applicable rules and regulations.

(5) Standby plans as required by this section shall be submitted to the Director upon request within 30 days of the receipt of such request; such standby plans shall be subject to review and approval by the Director. If, in the opinion of the Director, a standby plan does not effectively carry out the objectives as set forth in Appendix I, Paragraphs 1.1, 1.2 and 1.3, the Director may disapprove it, state his reason for disapproval and order the preparation of an amended standby plan within the time period specified in the order.

Ref: Title 129, Chapter 38, Nebraska Department of Environmental Quality

APPENDIX I

1.0 EMERGENCY EMISSION REDUCTION REGULATIONS

The following regulations define the actions that shall be taken by the general populace and by specific point sources to prevent the excessive buildup of air pollutant concentrations under each of the three episode severity levels when, and as, declared by the Director.

1.1 ALERT LEVEL

(a) General

(1) There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12:00 noon and 4:00 p.m.

(3) Persons operating fuel-burning equipment which require boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 noon and 4:00 p.m.

(4) Persons operating motor vehicles shall eliminate all unnecessary operations.

(b) Source Curtailment

(1) Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Alert level.

	Source of Air Pollution	Control Action
(1)	Coal or oil-fired electric power generating facilities	a. Substantial reduction by utilization of fuel having low ash and sulfur content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Substantial reduction by diverting electric power generation to facilities outside of Alert area.
(2)	Coal and oil-fired process steam generating facilities	a. Substantial reduction by utilization of fuel having low ash and sulfur content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Substantial reduction of steam load demands consistent with continuing plant operations.
(3)	Manufacturing industries of the following classification: PRIMARY METALS INDUSTRY PETROLEUM REFINING OPERATIONS CHEMICAL INDUSTRIES MINERAL PROCESSING INDUSTRIES PAPER AND ALLIED PRODUCTS GRAIN INDUSTRIES	a. Substantial reduction of air pollutants from manufacturing operations by curtailing, post-poning, or deferring production and all operations. b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gas vapors or malodorous substances.

c. Maximum reduction of heat load demands for processing.
d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

1.2 WARNING LEVEL

(a) General

(1) There shall be no open burning by any person of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

(3) Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 noon and 4:00 p.m.

(4) Persons operating motor vehicles must reduce operations by the use of car pools and increased use of public transportation and elimination of unnecessary operation.

(b) Source Curtailment

(1) Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Warning level.

	Source of Air Pollution	Control Action
(1)	Coal or oil-fired electric power generating facilities	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.
(2)	Coal or oil-fired process steam generating facilities	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Making ready for use a plan of action to be taken if an emergency develops.
(3)	Manufacturing industries which require considerable lead time for shut-down including the following classifications: PETROLEUM REFINING GRAIN INDUSTRIES PAPER AND ALLIED PRODUCTS MINERAL PROCESSING INDUSTRIES	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardships by postponing production and allied operation. b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors, or malodorous substances.

		c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
(4)	Manufacturing industries which require relatively short lead times for shut-down including classifications: GRAIN INDUSTRIES PAPER AND ALLIED PRODUCTS MINERAL PROCESSING INDUSTRIES	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

1.3 EMERGENCY LEVEL

(a) General

(1) There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.

(3) All places of employment described below shall immediately cease operations:

a. Mining and quarrying of non-metallic minerals.

b. All construction work except that which must proceed to avoid emergent physical harm.

c. All manufacturing establishments except those required to have in force an air pollution emergency plan.

d. All wholesale trade establishments; i.e. places of business primarily engaged in selling merchandise to retailers, or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies, except those engaged in the distribution of drugs, surgical supplies and food.

e. All offices of local, county, state government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the Chief Administrative Officer of local, county, or state government, authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order.

f. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food.

g. Banks, credit agencies, agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices.

h. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops.

i. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting, photocopying, mailing, mailing list and stenographic services, equipment retail services, commercial testing laboratories.

j. Automobile repair, automobile services, garages.

k. Establishments rendering amusement and recreational services including motion picture theaters.

l. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries.

(4) All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of air pollutants for their operation by ceasing, curtailing, or postponing operations which emit air pollutants to the extent possible without causing injury to persons or damage to equipment.

(5) The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.

(b) Source Curtailment

(1) Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Emergency level.

	Source of Air Pollution	Control Action
(1)	Coal or oil-fired electric power generating facilities	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing. c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
(2)	Coal and oil-fired process steam generating facilities	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing damage. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Taking the action called for in the emergency plan.
(3)	Manufacturing industries of the following classifications: PRIMARY METALS INDUSTRIES PETROLEUM REFINING CHEMICAL INDUSTRIES MINERAL PROCESSING INDUSTRIES GRAIN INDUSTRIES PAPER AND ALLIED PRODUCTS	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.
c. Maximum reduction of heat load demands for processing.
d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

APPENDIX II
HAZARDOUS AIR POLLUTANTS

Chemical Name	CAS Number
Acetaldehyde	75-07-0
Acetamide	60-35-5
Acetonitrile	75-05-8
Acetophenone	98-86-2
2-Acetylaminofluorene	53-96-3
Acrolein	107-02-8
Acrylamide	79-06-1
Acrylic acid	79-10-7
Acrylonitrile	107-13-1
Allyl chloride	107-05-1
4-Aminobiphenyl	92-67-1
Aniline	63-53-3
o-Anisidine	90-04-0
Asbestos	1332-21-4
Benzene	71-43-2
Benzidine	92-87-5
Benzotrichloride	98-07-7
Benzyl chloride	100-44-7
Biphenyl	92-52-4
Bis(2-ethylhexy)phthalate	117-81-7
Bis(chloromethyl)ether	542-88-1
Bromoform	75-25-2
1,3-Butadiene	106-99-0
Calcium cyanamide	156-62-7
Captan	133-06-2
Cabaryl	63-25-2
Carbon disulfide	75-15-0
Carbon tetrachloride	56-23-5
Carbonyl sulfide	463-58-1
Catechol	120-80-9
Chloramben	133-90-4
Chlordane	57-74-9
Chlorine	7782-50-5
Chloroacetic acid	79-11-8
2-Chloroacetophenone	532-27-4
Chlorobenzene	108-90-7
Chlorobenzilate	510-15-6
Chlorform	67-66-3
Chloromethyl methyl ether	107-30-2
Chloroprene	126-99-8
Cresols (mixed isomers)	1319-77-3
m-Cresol	108-39-4
o-Cresol	95-48-7
p-Cresol	106-44-5
Cumene	98-82-8
2,4-D	94-75-7
DDE	3547-04-4
Diazomethane	334-88-3
Dibenzofuran	132-64-9
1,2-Dibromo-3-chloropropane	96-12-8

Dibutyl phthalate	84-74-2
1,4-Dichlorobenzene	106-46-7
3,3'-Dichlorobenzidine	91-94-1
Dichloroethyl ether (Bis(2-chloroethyl)ether)	111-44-4
1,3-Dichloropropene (1,3-Dichloropropylene)	542-75-6
Dichlorvos	62-73-7
Diethanolamine	111-42-2
N,N-Diethyl aniline (N,N-Dimethylaniline)	121-69-7
Diethyl sulfate	64-67-5
3,3-Dimethoxybenzidine	119-90-4
4-Dimethylaminoazobenzene	60-11-7
3,3-Dimethylbenzidine	119-93-7
Dimethylcarbamyl chloride	79-44-7
Dimethyl formamide	68-12-2
1,1-Dimethyl hydrazine	57-14-7
Dimethyl phthalate	131-11-3
Dimethyl sulfate	77-78-1
4,6-Dinitro-o-cresol	534-52-1
2,4-Dinitrophenol	51-28-5
2,4-Dinitrotoluene	121-14-2
1,4-Dioxane (1,4-Diethyleneoxide)	123-91-1
1,2-Diphenylhydrazine	122-66-7
Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8
1,2-Epoxybutane (1,2-Butylene oxide)	106-88-7
Ethyl acrylate	140-88-5
Ethylbenzene	100-41-4
Ethyl carbamate (Urethane)	51-79-6
Ethyl chloride (Chloroethane)	75-00-3
Ethylene dibromide (1,2-Dibromoethane)	106-93-4
Ethylene dichloride (1,1-Dichloroethane)	107-06-2
Ethylene glycol	107-21-1
Ethyleneimine (Aziridine)	151-56-4
Ethylene oxide	75-21-8
Ethylene thiourea	96-45-7
Ethylidene dichloride (1,1-Dichloroethane)	75-34-3
Formaldehyde	50-00-0
Heptachlor	76-44-8
Hexachlorobenzene	118-74-1
Hexachloro-1,3-butadiene	87-68-3
Hexachlorocyclopentadiene	77-47-4
Hexachloroethane	67-72-1
Hexamethylene-1,6-diisocyanate	822-06-0
Hexamethylphosphoramide	680-31-9
Hexane	110-54-3
Hydrazine	302-01-2
Hydrochloric acid	7647-01-0
Hydrogen fluoride	7664-39-3
Hydroquinone	123-31-9
Isophorone	78-59-1
Lindane	58-89-9
Maleic anhydride	108-31-6
Methanol	67-56-1
Methoxychlor	72-43-5
Methyl bromide (Bromomethane)	74-83-9
Methyl chloride (Chloromethane)	74-87-3
Methyl chloroform (1,1,1-Trichloroethane)	71-55-6

Methyl ethyl ketone	78-93-3
Methyl hydrazine	60-34-4
Methyl iodide (Iodomethane)	74-88-4
Methyl isobutyl ketone (Hexone)	108-10-1
Methyl isocyanate	624-83-9
Methyl methacrylate	80-62-6
Methyl tert-butyl ether	1634-04-4
4,4-Methylenebis(2-chloro)aniline	101-14-4
Methylene chloride (Dichloromethane)	75-09-2
Methylene diphenyl diisocyanate (MDI)	101-68-8
4-4'-Methylenedianiline	101-77-9
Naphthalene	91-20-3
Nitrobenzene	98-95-3
4-Nitrobiphenyl	92-93-3
4-Nitrophenol	100-02-7
2-Nitropropane	79-46-9
N-Nitrosodimethylamine	62-75-9
N-Nitrosomorpholine	59-89-2
N-Nitrosos-N-methylurea	684-93-5
Parathion	56-38-2
Pentachloronitrobenzene (Quintozene)	82-68-8
Pentachlorophenol	87-68-5
Phenol	108-95-2
p-Phenylenediamine	106-50-3
Phosgene	75-44-5
Phosphine	7803-51-2
Phosphorous	7723-14-0
Phthalic anhydride	85-44-9
PCBs	1336-36-3
1,3-Propane sultone	1120-71-4
beta-Propiolactone	57-57-8
Propionaldehyde	123-38-6
Propoxur (Baygon)	114-26-1
Propylene dichloride (1,2 Dichloropropane)	78-87-5
Propylene oxide	75-56-9
Propylenimine (2-Methyl aziridine)	75-55-8
Quinoline	91-22-5
Quinone	106-51-4
Styrene	100-42-5
Styrene oxide	96-09-3
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746-01-6
1,1,2,2-Tetrachloroethane	79-34-5
Tetrachloroethylene (Perchloroethylene)	127-18-4
Titanium tetrachloride	7550-45-0
Toluene	108-88-3
2,4-Toluene diamine	95-80-7
Toluene-2,4-diisocyanate	584-84-9
c-Toluidene	95-53-4
Toxaphene	8001-35-2
1,2,4-Trichlorobenzene	120-82-1
1,1,2-Trichloroethane	79-00-5
Trichloroethylene	79-01-6
2,4,5-Trichlorophenol	95-95-4
2,4,6-Trichlorophenol	88-06-2
Triethylamine	121-44-8
Trifluralin	1582-09-8

2,2,4-Trimethylpentane	540-84-1
Vinyl acetate	108-05-4
Vinyl bromide	593-60-2
Vinyl chloride	75-01-4
Vinylidene chloride (1,1-Dichloroethylene)	75-35-4
Xylene (mixed isomers)	1330-20-7
m-Xylene	108-38-3
o-Xylene	95-47-6
p-Xylene	106-42-3

Antimony compounds:
- Antimony — 7440-36-0

Arsenic compounds (inorganic including arsine):
- Arsenic — 7440-38-2
- Arsine

Beryllium compounds:
- Beryllium — 7440-41-7

Cadium compounds:
- Cadium — 7440-43-9

Chromium compounds:
- Chromium — 7440-47-3

Cobalt compounds:
- Cobalt — 7440-48-4

Coke oven emissions

Cyanide compounds (XCN where X=H or any other group where a formal dissociation may occur):
- Hydrogen cyanide — 74-90-8

Glycol ethers (include mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol

R-(OCH2CH2)n-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure:

R-(OCH2CH)n-OH

Polymers are excluded from the glycol category

Lead compounds:
- Lead — 7439-92-1

Manganese compounds:
- Manganese — 7439-96-5

Mercury compounds:
- Mercury — 7439-97-6

Mineral fibers:	(includes glass microfibers, glass wool fibers, rock wool fibers and slag wool fibers, each characterized as "respirable" (fiber diameter <3.5 micrometers) and possessing an aspect ratio (fiber length divided by fiber diameter) >3)	
Nickel compounds:		
Nickel		7440-02-0
POM:	(includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100 C)	
Radionuclides:	(a type of atom which spontaneously undergoes radioactive decay)	
Selenium compounds:		
Selenium		7782-49-2

APPENDIX III
REPORTING LEVELS OF HAZARDOUS AIR POLLUTANTS FOR EMISSION INVENTORY

CAS #	Chemical Name	Reporting Level Pounds/year)	Uses[a]
57147	1,1-Dimethyl hydrazine	16	T,A
79005	1,1,2-Trichloroethane	1,000	T,I
79345	1,1,2,2-Tetrachloroethane	300	T,I
96128	1,2-Dibromo-3-chloropropane	20	T,A
122667	1,2-Diphenylhydrazine	90	T,I
106887	1,2-Epoxybutane	1,000	T,I
75558	1,2-Propylenimine (2-Methyl aziridine)	6	T,A
120821	1,2,4-Trichlorobenzene	2,000	T,I
106990	1,3-Butadiene	70	T,I
542756	1,3-Dichloropropene	1,000	T,I
1120714	1,3-Propane sultone	30	T,I
106467	1,4-Dichlorobenzene(p)	1,000	T,I
123911	1,4-Dioxane (1,4-Diethyleneoxide)	2,000	T,I
53963	2-Acetylaminofluorine	10	T,A
532274	2-Chloroacetophenone	60	T,I
79469	2-Nitropropane	1,000	T,I
540841	2,2,4-Trimethylpentane	2,000	T,I
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	0.0012	T,A
584849	2,4-Toluene diisocyanate	100	T,I
51285	2,4-Dinitrophenol	1,000	T,I
121142	2,4-Dinitrotoluene	20	T,A
94757	2,4-D, salts, esters (2,4-Dichlorophenoxy acetic acid)	2,000	T,I
95807	2,4-Toluene diamine	20	T,A
95954	2,4,5-Trichlorophenol	1,000	T,I
88062	2,4,6-Trichlorophenol	2,000	T,A
91941	3,3-Dichlorobenzidene	200	T,I
119904	3,3'-Dimethoxybenzidine	100	T,I
119937	3,3'-Dimethyl benzidine	16	T,A
92671	4-Aminobiphenyl	1,000	T,I
92933	4-Nitrobiphenyl	1,000	T,I
100027	4-Nitrophenol	2,000	T,I
101144	4,4-Methylene bis (2-chloroaniline)	200	T,I
101779	4,4'-Methylenedianiline	1,000	T,I
534521	4,6-Dinitro-o-cresol, and salts	100	T,I
75070	Acetaldehyde	2,000	T,I
60355	Acetamide	1,000	T,I
75058	Acetonitrile	1,000	T,I
98862	Acetophenone	1,000	T,I
79061	Acrylamide	20	T,A
79107	Acrylic acid	600	T,I
107131	Acrylonitrile	300	T,I
107051	Allyl chloride	1,000	T,I
62533	Aniline	1,000	T,I
71432	Benzene	1,000	T,I
92875	Benzidine	0.6	T,A
98077	Benzotrichloride	12	T,A
100447	Benzyl chloride	100	T,I
57578	beta-Propiolactone	100	T,I
92524	Biphenyl	2,000	T,I

117817	Bis(2-ethylhexyl)phthalate (DEHP)	2,000	T,I
542881	Bis(chloromethyl)ether	0.6	T,A
75252	Bromoform	2,000	T,I
156627	Calcium cyanamide	2,000	T,I
133062	Captan	2,000	T,I
63252	Carbaryl	2,000	T,I
75150	Carbon disulfide	1,000	T,I
56235	Carbon tetrachloride	1,000	T,I
463581	Carbonyl sulfide	2,000	T,I
120809	Catechol	2,000	T,I
133904	Chloramben	1,000	T,I
57749	Chlordane	20	T,A
7782505	Chlorine	100	T,I
79118	Chloroacetic acid	100	T,I
108907	Chlorobenzene	2000	T,I
510156	Chlorobenzilate	400	T,I
67663	Chloroform	900	T,I
107302	Chloromethyl methyl ether	100	T,I
126998	Chloroprene	1,000	T,I
1319773	Cresols/Cresylic acid (isomers and mixture)	1,000	T,I
95487	o-Cresol	1,000	T,I
108394	m-Cresol	1,000	T,I
106445	p-Cresol	1,000	T,I
98828	Cumene	2,000	T,I
334883	Diazomethane	1,000	T,I
132649	Dibenzofuran	2,000	T,I
72559	DDE (p,p'-Dichlorodiphenyldi-chloroethylene)	20	T,A
84742	Dibutylphthalate	2,000	T,I
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)	60	T,I
62737	Dichlorvos	200	T,I
11422	Diethanolamine	2,000	T,I
64675	Diethyl sulfate	1,000	T,I
60117	Dimethyl aminoazobenzene	1,000	T,I
79447	Dimethyl carbamoyl chloride	20	T,A
68122	Dimethyl formamide	1,000	T,I
131113	Dimethyl phthalate	2,000	T,I
77781	Dimethyl sulfate	100	T,I
106898	Epichlorohydrin	1,000	T,I
140885	Ethyl acrylate	1,000	T,I
100414	Ethyl benzene	2,000	T,I
51796	Ethyl carbamate (Urethane)	800	T,I
75003	Ethyl chloride	2,000	T,I
106934	Ethylene dibromide (Dibromoethane)	100	T,I
107062	Ethylene dichloride (1,2-Dichloroethane)	800	T,I
107211	Ethylene glycol	2,000	T,I
151564	Ethylene imine (Aziridine)	6	T,A
75218	Ethylene oxide	100	T,I
96457	Ethylene thiourea	600	T,I
75343	Ethylidene dichloride (1,1-Dichloroethane)	1,000	T,I
50000	Formaldehyde	1,000	T,I
76448	Heptachlor	20	T,A
118741	Hexachlorobenzene	20	T,A
87683	Hexachlorobutadiene	900	T,I
77474	Hexachlorocyclopentadiene	100	T,I
67721	Hexachloroethane	2,000	T,I
822060	Hexamethylene,-1,6-diisocyanate	20	T,A

680319	Hexamethylphosphoramide	20	T,A
110543	Hexane	2,000	T,I
302012	Hydrazine	8	T,A
7647010	Hydrochloric acid	2,000	T,I
7664393	Hydrogen fluoride	100	T,I
123319	Hydroquinone	1,000	T,I
78591	Isophorone	2,000	T,I
58899	Lindane (hexachlorcyclohexane, gamma)	20	T,A
108316	Maleic anhydride	1,000	T,I
67561	Methanol	2,000	T,I
72435	Methoxychlor	2,000	T,I
74839	Methyl bromide (Bromomethane)	2,000	T,I
74873	Methyl chloride (Chloromethane)	2,000	T,I
71556	Methyl chloroform (1,1,1-Trichloroethane)	2,000	T,I
78933	Methyl ethyl ketone (2-Butanone)	2,000	T,I
60344	Methyl hydrazine	60	T,I
74884	Methyl iodide (Iodomethane)	1,000	T,I
108101	Methyl isobutyl ketone	2,000	T,I
624839	Methyl isocyanate	100	T,I
80626	Methyl methacrylate	2,000	T,I
1634044	Methyl tert-butyl ether	2,000	T,I
12108133	Methylcyclopentadienyl manganese	100	T,I
75092	Methylene chloride (Dichloromethane)	2,000	T,I
101688	Methylene diphenyl diisocyanate	100	T,I
91203	Naphthalene	2,000	T,I
98953	Nitrobenzene	1,000	T,I
62759	N-Nitrosodimethylamine	2	T,A
69892	N-Nitrosomorpholine	1,000	T,I
684935	N-Nitroso-N-methylurea	0.4	T,A
121697	N,N-Dimethylaniline	1,000	T,I
90040	o-Anisidine	1,000	T,I
95534	o-Toluidine	1,000	T,I
56382	Parathion	100	T,I
82688	Pentachloronitrobenzene (Quintobenzene)	300	T,I
87865	Pentachlorophenol	700	T,I
108952	Phenol	100	T,I
75445	Phosgene	100	T,I
7803512	Phosphine	2,000	T,I
7723140	Phosphorous	100	T,I
85449	Phthalic anhydride	2,000	T,I
1336363	Polychlorinated biphenyls (Aroclors)	18	T,A
106503	p-Phenylenediamine	2,000	T,I
123386	Propionaldehyde	2,000	T,I
114261	Propoxur (Baygone)	2,000	T,I
78875	Propylene dichloride (1,2-Dichloropropane)	1,000	T,I
75569	Propylene oxide	2,000	T,I
91225	Quinoline	12	T,A
106514	Quinone	2,000	T,I
100425	Styrene	1,000	T,I
96093	Styrene oxide	1,000	T,I
127184	Tetrachloroethylene (Perchloroethylene)	2,000	T,I
7550450	Titanium tetrachloride	100	T,I
108883	Toluene	2,000	T,I
8001352	Toxaphene (chlorinated camphene)	20	T,A
79016	Trichloroethylene	2,000	T,I
121448	Triethylamine	2,000	T,I

1582098	Trifluralin	2,000	T,I
108054	Vinyl acetate	1,000	T,I
593602	Vinyl bromide (bromoethene)	600	T,I
75014	Vinyl chloride	200	T,I
75354	Vinylidene chloride (1,1-Dichloroethylene)	400	T,I
1330207	Xylenes (isomers and mixture)	2,000	T,I
108383	m-Xylenes	2,000	T,I
95476	o-Xylenes	2,000	T,I
106423	p-Xylenes	2,000	T,I

-	Arsenic and inorganic arsenic compounds	10	T,A
7784421	Arsine	10	T,A
-	Antimony compounds (except those specifically listed)*	2,000	T,I
1309644	Antimony trioxide	1,000	T,I
1345046	Antimony trisulfide	100	T,I
7783702	Antimony pentafluoride	100	T,I
28300745	Antimony potassium tartrate	1,000	T,I
-	Beryllium compounds (except Beryllium salts)	16	T,A
-	Beryllium salts	0.04	T,A
-	Cadmium compounds	20	T,A
130618	Cadmium oxide	20	T,A
-	Chromium compounds (except Hexavalent and Trivalent)	2,000	T,I
-	Hexavalent Chromium compounds	4	T,A
-	Trivalent Chromium compounds	2,000	T,I
10025737	Chromic chloride	100	T,I
744084	Cobalt metal (and compounds, except those specifically listed)*	100	T,I
10210681	Cobalt carbonyl	100	T,I
62207765	Fluomine	100	T,I
-	Coke oven emissions	30	T,I
-	Cyanide compounds (except those specifically listed)*	2,000	T,I
143339	Sodium cyanide	100	T,I
151508	Potassium cyanide	100	T,I
-	Glycol ethers (except those specifically listed)*	2,000	T,I
110805	2-Ethoxy ethanol	2,000	T,I
111762	Ethylene glycol monobutyl ether	2,000	T,I
108864	2-Methoxy ethanol	2,000	T,I
-	Lead and compounds (except those specifically listed)*	20	T,A
75741	Tetramethyl lead	20	T,A
78002	Tetraethyl lead	20	T,A
7439965	Manganese and compounds (except those specifically listed)*	800	T,I
12108133	Methylcyclopentadienyl manganese	100	T,I
-	Mercury compounds (except those specifically listed)*	20	T,A
10045940	Mercuric nitrate	20	T,A
748794	Mercuric chloride	20	T,A
62384	Phenyl mercuric acetate	20	T,A
-	Elemental Mercury	20	T,A
-	Mineral fiber compounds (except those specifically listed)*	[b]	-
1332214	Asbestos	[b]	-
-	Erionite	[b]	-
-	Silica (crystalline)	[b]	-
-	Talc (containing asbestos form fibers)	[b]	-
-	Glass wool	[b]	-
-	Rock wool	[b]	-
-	Slag wool	[b]	-
-	Ceramic fibers	[b]	-
-	Nickel compounds (except those specifically listed)*	1,000	T,I
13463393	Nickel Carbonyl	100	T,I
12035722	Nickel refinery dust	80	T,I
-	Nickel subsulfide	40	T,I
-	Polycyclic organic matter-POM (except those specifically listed)*	20	T,A
56553	Benz(a)anthracene	20	T,A

50328	Benzo(a)pyrene	20	T,A
205992	Benzo(b)fluoranthene	20	T,A
57976	7,12-Dimethylbenz(a)anthracene	20	T,A
225514	Benz(c)acridine	20	T,A
218019	Chrysene	20	T,A
53703	Dibenz(ah)anthracene	20	T,A
189559	1,2,7,8-Dibenzopyrene	20	T,A
193395	Indeno(1,2,3-cd)pyrene	20	T,A
-	Dioxins & Furans (TCDD equivalent) **	-	
7782492	Selenium and compounds (except those specifically listed)*	100	T,I
7488564	Selenium sulfide (mono and di)	100	T,I
7783075	Hydrogen selenide	100	T,I
10102188	Sodium selenite	100	T,I
13410010	Sodium selenate	100	T,I
99999918	Radionuclides (including radon)	[c]	

* For this chemical group, specific compounds or subgroups are named specifically in this table. For the remainder of the chemicals in the chemical group, a single ***de minimis*** value is listed, and this value applies to the sum of the compounds in the group which are not named specifically.

** The "toxic equivalent factor" method in EPA/625/3-89-016, [U.S. EPA (1989) Interim procedures for estimating risk associated with exposure to mixtures] should be used for PCDD/PCDF mixtures. A different ***de minimis*** level will be determined for each mixture depending on the equivalency factors used which are compound specific.

[a] Refer to the instruction sheet for the treatment of HAP-containing mixtures. The uses to be reported are as follows:
T = Total annual use
A = All individual processes or activities in which the HAP is used
I = Each individual process or activity with annual usage = or > the amount listed in the Reporting Level column.

[b] ***De minimis*** values are zero pending public comment on the rule. Currently available data do not support assignment of a "trivial" emission rate, therefore, the value assigned will be policy based.

[c] The EPA relies on Subparts B and I, and Appendix E of 40 CFR Part 61 and assigns a ***de minimis*** level based on an effective dose equivalent of 0.3 millirem per year for a 7 year exposure period that would result in a cancer risk of 1 per million. The individual radionuclides subject to ***de minimis*** levels used for Section 112 (g) are also contained in 40 CFR Part 61.